

# **PRESERVING A STRONG UNITED STATES POSTAL SERVICE: WORKFORCE ISSUES**

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## **HEARINGS**

BEFORE THE

### **COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE**

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

\_\_\_\_\_  
FEBRUARY 4 AND 24, 2004  
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## **PRESERVING A STRONG UNITED STATES POSTAL SERVICE: WORKFORCE ISSUES**

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**WEDNESDAY, FEBRUARY 4, 2004**

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:03 p.m., in room 2154, in the Rayburn House Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coleman, Sununu, Akaka, Durbin, and Carper.

### **OPENING STATEMENT OF CHAIRMAN COLLINS**

Chairman COLLINS. The Committee will come to order. I want to begin today's hearing by thanking Chairman Tom Davis of the House Government Operations Committee for allowing us to use his hearing room. The Senate Governmental Affairs Committee, like all of the committees in the Senate is precluded from using its normal hearing room today which is located in the Dirksen Building. So we were very thankful that we were able to reschedule this morning's hearing for this afternoon with the good graces of Chairman Davis.

I also want to thank my staff for their extraordinary efforts in getting the word out about the hearing, and also in trying to recreate some of the hearing materials, given the fact that we are still denied access to our offices. They really made heroic efforts. They were working yesterday out of offices at GAO, at OPM, and virtually all over the city, and in some cases out of their homes. But it just shows what can happen when everybody works together.

Today marks the third in a series of hearings that the Committee is holding to review the reforms recommended by the Presidential Commission on the Postal Service. Under the effective leadership of Co-Chairmen Harry Pierce and James Johnson the Commission put together a comprehensive report on an extremely complex issue identifying the operational, structural, and financial challenges facing the U.S. Postal Service. The Commission's recommendations are designed to help this 225-year-old Postal Service remain viable over the long term.

So much depends upon the Postal Service's continued viability. The Postal Service itself employs more than 730,000 career employees. Less well known is the fact that the Postal Service is also the linchpin of a \$900 billion dollar mailing industry that employs 9 million Americans in fields as diverse as direct mailing, printing, catalog production, and paper manufacturing. The health of the

Postal Service is essential to the thousands of companies in these fields and the millions that they employ.

One of the greatest challenges for the U.S. Postal Service is the decrease in mail volume as business communication, bills and payments move more and more to the Internet. The Postal Service has faced declining volumes of First-Class Mail for the past 4 years. This is highly significant given the fact that First-Class Mail accounts for 48 percent of total mail volume, and the revenue it generates pays for more than two-thirds of the Postal Service's institutional cost.

At our first hearing to review the Commission's recommendations in September, the Committee heard from Commission Co-Chairman James Johnson. His testimony provided Committee Members with the rationale behind the Commission's recommendations. Commissioner Johnson also made the very important point that the Postal Service's short-term fiscal health is illusory and that Congress must not ignore the fundamental reality that the Postal Service as an institution is in serious jeopardy.

This Committee is very familiar with the Postal Service's short and long term financial outlooks, having reported out just last year a pension bill that forestalled the financial crisis that awaits the Postal Service if we do not act. The Presidential Commission presented its assessment of the fiscal crisis in frank terms concluding, "an incremental approach to Postal Service reform will yield too little, too late given the enterprise's bleak fiscal outlook, the depth of its current debt and unfunded obligations, the downward trend in First-Class Mail volumes, and the limited potential of its legacy postal network that was built for a bygone era."

That is a very strong statement and it is one that challenges both the Postal Service and Congress to embrace far-reaching reforms.

At the Committee's second hearing in November we heard from the Postmaster General and the Comptroller General of the General Accounting Office. The Postmaster General described transformation efforts already underway at the Postal Service, many of which are consistent with the Commission's recommendations. In his testimony the Comptroller General of the General Accounting Office shared the Commission's concerns about the Postal Service's \$92 billion in unfunded liabilities and obligations. He pointed to the need for fundamental reforms to minimize the risks of a significant taxpayer bailout or dramatic postal rate increases.

I would note that since April 2001, the Postal Service has been included on the GAO's high-risk list.

Today we will focus on the various recommendations affecting the Postal Service's workforce comprised of more than 700,000 dedicated letter carriers, clerks, mail handlers, postmasters, and others. The Committee will have the opportunity to more fully explore the workforce-related recommendations of the Commission which include some of its more controversial proposals. Among them are recommendations to reform the collective bargaining process, to give management and employee unions the authority to negotiate not only wages but also all benefits, to establish a performance-based pay system for all employees, and to authorize the new Postal Service Regulatory Board to develop a mechanism for ensur-

ing that total compensation for postal employees is comparable to the private sector.

The Postal Service faces the difficult task of trying to rightsize its workforce to meet the decline in mail volume, technological competition, and other operational challenges. With some 47 percent of the current employees eligible for retirement by the year 2010, rightsizing does not, however, have to mean widespread layoffs and it should not. With careful management, much can be done to minimize any negative impact on employees and to create a more positive working environment.

As a Senator representing a largely rural State, whose citizens depend on the Postal Service, I appreciate the Commission's strong endorsement of the basic features of universal service: Affordable rates, frequent delivery, and convenient community access to retail postal services. It is important to me that whether my constituents are living in the northern or western stretches of Maine, or on islands, or in our many small communities that dot the State that they have the same access to postal services as the people who live in our large cities. If the Postal Service were no longer to provide universal service and deliver mail to every customer, the affordable communications link upon which many Americans rely would be jeopardized.

I would note that most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to rural Americans at the rates that the Postal Service has been offering.

The preservation of universal service and many more issues must be examined in depth if we are to save and strengthen this vital service upon which millions of Americans rely, not only for communication, but also for their livelihoods. The Postal Service has reached a critical juncture. It is time for a thorough evaluation of its operations and requirements, and it is also time for Congress to act to pass reform legislation.

Senator Carper and I have committed to working together with Senator Stevens, Senator Akaka, Senator Lieberman, Senator Sununu, and Senator Fitzgerald who have expressed great interest in this area. I know given the history of previous attempts at legislative reforms that we are taking on a daunting challenge, but it is essential that we seize the opportunity provided by the Commission's excellent work. Successful reform will hinge on the cooperation and the support of the Postal Service's workforce. I very much look forward to hearing the testimony of our witnesses today.

I would now like to call on Senator Akaka for his comments.

#### **OPENING STATEMENT OF SENATOR AKAKA**

Senator AKAKA. Thank you very much, Madam Chairman. I really want to thank you for going forward with this hearing, even on the House side. And I wish to thank our House colleagues for offering their hearing room to us. And of course, I want to extend my sincere appreciation to our witnesses who rearranged their schedules to be with us this afternoon. We are indeed privileged to hear your views on the workforce recommendations of the Commission on the U.S. Postal Service. So welcome to our panelists who represent the postmasters and supervisors, and to our second panelists as well.

For the second time in a little over 2 years, first with anthrax and now with ricin, we find ourselves facing the aftermath of a bioterrorist attack through the mail. The threat of bioterrorism is something I have long been concerned with, held hearings on, and have introduced legislation. The President's fiscal year 2005 budget released on Monday failed to include the Postal Service's request of \$779 million to help secure the mail. We can ill afford threats to the Postal Service which is the cornerstone of a \$9 billion dollar mailing industry.

Our first witnesses, representing the Nation's postmasters and postal supervisors, are uniquely qualified to discuss postal operations and management. I also look forward to the testimony of our expert witnesses on pay comparability and arbitration; issues that will certainly be discussed again once we reschedule yesterday's hearing with the postal unions.

The Postal Service is currently enjoying a period of stable labor-management relations, but I fear this unfavorable environment could change if portions of the workforce recommendations suggested by the Postal Commission are adopted. The Commission would implement a pay-for-performance system for all postal employees, impose a rigid collective bargaining procedure, task a new postal regulatory board with determining total compensation, and require negotiations over benefits.

One in three Federal workers is employed by the U.S. Postal Service. I urge caution in embracing any proposal that would cut out postal workers from the government's pension plans and the Federal Employee Health Benefit Plan, especially postal retirees. We should do no harm to retired postal workers who have already earned their benefits and planned their retirements under the Federal pension and health plans.

I thank the Chairman and Senator Carper for seeking a review of whether postal-only pension and health plans would undermine the stability of the existing Federal system. Nor should postal reform legislation result in postal workers bearing the brunt of any reorganization. We should remember that the future of the Postal Service is dependent not only on how well and how effectively it manages its capital assets and services, but on how well its labor force is managed.

I want to thank you, Madam Chairman, for conducting these postal hearings in an open and bipartisan manner. I am pleased to work with you, as I have always said, and with our colleague from Delaware and others to examine how to best position the Postal Service to serve the public in the 21st Century and be a model employer. Thank you very much, Madam Chairman.

Chairman COLLINS. Thank you, Senator. Senator Sununu.

#### **OPENING STATEMENT OF SENATOR SUNUNU**

Senator SUNUNU. Thank you very much, Madam Chairman. It is a pleasure to be here and I very much appreciate you having this hearing. I must say it is a pleasure to be back in this room. It is also nice to see that my Senate colleagues who never served in the House had no trouble finding this side of the Capitol.

I first began my work in Congress on this committee, the Government Reform and Oversight Committee, and 6 years ago began

watching John McHugh's efforts at postal reform. That was a very difficult task for John and for other committee members, so I think it is a great effort on your behalf to try to pick up this process, try to build on the Commission's work, knowing full well how many obstacles will be placed in front of you, and trying to work through a balanced, thoughtful approach to reform.

You noted in your opening statement the trends, the changes in technology, the competitive forces that are out there, the importance of the mail industry to so many in the private sector who are trying to communicate with customers or friends, whatever that may be. But at the same time there are changes that are very much necessary.

So I salute and appreciate your work, and I am especially pleased to be here today with Wally Olihovik, the President of the National Association of Postmasters and would be happy to provide a flowery introduction at the appropriate time. Thank you again.

Chairman COLLINS. Thank you very much, Senator. In the interest of full disclosure, it took two staff people and a trail of bread crumbs for me to find my way over to the House side. I tried to follow you from lunch but you were too quick for me.

Senator Carper.

#### **OPENING STATEMENT OF SENATOR CARPER**

Senator CARPER. Thank you, Madam Chairman. To my friend from New Hampshire, let me just say, I served over here for 10 years. I served on the House Banking Committee for 10 years, just down the hall and it is nice to be back. I could have used the bread crumbs this afternoon just to make sure I found it quickly. But it is great to be here and we appreciate very much our host for letting us come.

Senator Akaka served over here for a spell as well and I know that the former Governor from Minnesota did not serve in the House. But did you work with Bill Cohen when he was a House member?

Chairman COLLINS. I did indeed. But only in the Cannon Building.

Senator CARPER. Fair enough. I am delighted that we're all here and encouraged by being in this room where our House colleagues have been working on these issues, especially Congressman McHugh and Congressman Waxman, a good deal longer than others of us.

Madam Chairman, I am delighted that our Committee is going to be taking a day or two to study the workforce recommendations that were made by the President's Postal Commission last summer. These recommendations that we are going to be discussing today have received quite a bit of attention, as we all know, over the last few months. Whether one supports them or not, to my colleagues I would just say that we can agree that they are among the most controversial made by this Commission.

The Postal Service employs over 800,000 people, I think about 825,000, but the key workforce recommendations made by the Commission affected roughly 725,000 employees that are represented by the four major postal unions. Those are the rec-

ommendations that I am going to focus on today in my opening statement, if I may.

When the Commission first announced them I was, to be honest with you, a bit skeptical. The collective bargaining process used at the Postal Service today has, I think, worked well for the most part. It forces the parties into arbitration less than half the time. In recent years that process has allowed the Postal Service and three of its four unions to negotiate modest contract extensions. It has also created a Postal Service that has provided millions of hard-working men and women over the years with stable middle-class jobs that, I guess now for more than three decades. After taking a couple of months to study the Commission's recommendations more closely I have to admit that I continue to be a bit skeptical, at least with respect to the issues before us today.

First there are the recommended changes to the collective bargaining process. The Commission's recommendations aim to make the process quicker and more efficient through the use of strict timeliness, mandatory mediation, and the last best final offer model of interest arbitration. I must say as a baseball fan it is an approach that I am used to, at least with respect to negotiating contracts in baseball and one that frankly I find some favor with.

Having said that, these suggestions appear to ignore the fact that the current process, while admittedly not perfect, should take no longer than 135 days if followed to the absolute letter. These suggestions also appear to ignore the fact that the current process gives the unions and management significant flexibility that has allowed both sides to be creative and work to avoid arbitration. It is not clear to me just yet how the Commission-recommended process would work any better. As you know, some skeptics have raised concerns that this new process could actually force more disputes into arbitration where one side is likely to lose big in the risky last best final offer stage. Again as I said, while I am one who favors the last best final offer approach, I think we have to proceed cautiously here.

Then there are recommendations dealing with employee pay and benefits. The Commission appears to have come to the conclusion that postal employees are overpaid, at least when benefits are taken into account. To remedy this they call on a new postal regulatory body to develop an updated definition of comparability and to use it to set a cap on total compensation for postal employees. They also recommend allowing postal benefits to be negotiated during collective bargaining. Like with the Commission's recommendations on collective bargaining, I am not yet convinced of the need for these changes either.

As I have mentioned in the past, I do not believe that postal employees are overpaid, and to the extent that there is a pay premium, arbitration panels in postal labor disputes have the authority, I believe, to look at the extent of the premium and to moderate employee pay accordingly. Before we make any changes to the Federal Employee Health Benefits Plan that could have a dramatic impact on other Federal employees we should recognize that the Postal Service already has the ability to use the collective bargaining process to press its employees to pay a greater share of their health-care costs.

I am pleased then that the postal reform principles announced by President Bush last month ignore the Commission's workforce recommendations. The wages and benefits paid out to the Postal Service's bargaining unit employees do account for more than 50 percent of the Postal Service's total costs. The Postal Service performs labor intensive work, however, and this will not change even if we were to adopt the Commission's recommendations wholesale. The President recognizes this and has called on us to focus on those fundamental reforms that are necessary to update the Postal Service for the 21st Century.

The challenges the Postal Service faces today were laid out in stark detail just last week when Postmaster General Potter and the Postal Board of Governors Chairman David Fineman testified before the House Government Reform Committee's special panel on postal reform. I presume that happened here in this room. Chairman Fineman pointed out, I believe, that the total volume of mail delivered by the Postal Service has actually declined by more than 5 billion pieces since 2000. Over the same period the number of homes and businesses that the Postal Service must deliver to has increased by some 5 million. First-class mail, the largest contributor to the Postal Service's bottom line, is leading the decline in volume. Some of those disappearing First-Class letters are being replaced by advertising mail, which I am sure finds its way to all of our mailboxes, and which earns significantly less. Many First-Class letters are being lost for good, the First-Class Mail business, to E-mails and to electronic bill paying.

Let me just say, we should certainly be talking about whether any changes need to be made to the Postal Service's workforce. I actually look forward to learning more about the Commission's recommendations and how they would work. As the President points out, however, we do need to focus our reform efforts on initiatives that will improve transparency, will improve accountability at the Postal Service and give management the increased flexibility that they need to streamline operations and to seek out new mail volumes.

In closing, I would like to urge the Postal Service and its unions to sit down with each other and find out if there are any changes that should be made to the collective bargaining process or to the laws governing pay and benefits for postal employees. I am not convinced today that the Commission's recommendations are the right approach but I am certain that there are changes out there that would make a decent system even better. The best reforms in this area will be the ones that management and labor can agree to jointly.

Thanks again, Madam Chairman, for letting me give what I know is a fairly long statement. I really do appreciate the opportunity to work with you, Senator Akaka, Senator Sununu, Senator Stevens, and our other colleagues on these issues. This is important legislation and this is a great opportunity for us and we look forward to making it happen.

Chairman COLLINS. Thank you. Senator Coleman.

### OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Madam Chairman. I want to thank you for your trademark bipartisan leadership in taking on very tough issues, and this is a tough issue. I respect the concerns raised by my colleague from Delaware. The reality though is that I think we take for granted universal service, we take for granted affordability. I think in these tough economic times there are not going to be taxpayer bailouts of institutions that do not meet the challenge of improvements in productivity. So we have got some challenges.

I will also look at the recommendations in a reflective way. I do not come to this with a prejudgment but I do come to this with a sense that we have to do what you, Madam Chairman, articulated in your opening statement, preserve universal service, preserve affordability. The Post Office, it is a personal thing for so many of us, the service that we get.

It is also a key in my State. We have a tremendous printing industry. When I was mayor of St. Paul that was one of the strongest industries in the city. Their lifeblood depends on the efficiency and affordability of the service. So let us go about the task of doing what must be done to preserve universal service, preserve affordability, and approach it with an open mind to the type of changes that will be required for us to get there.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you very much.

I would now like to welcome our first panel of witnesses, and I would like to turn to Senator Sununu for purposes of introducing our first witness.

Senator SUNUNU. Thank you, Madam Chairman. I am very pleased to be here as a Member of this Committee to participate in this hearing, until I am asked to preside over the Senate, which will come at 3 o'clock. I am especially proud to introduce Wally Olihovik, the President of the National Association of Postmasters and one of New Hampshire's finest experts, I suppose, to the rest of the country.

Mr. Olihovik has served the National Association of Postmasters and the Postal Service with tremendous distinction. He is a great voice and provides a great perspective on the value of the Postal Service, the importance of some of the things that were spoken about in our opening statements, universal service and being a competitive force, or a competitive engine for so many businesses that rely on the Postal Service. But also a great perspective on what can be done to improve the organization and the employment structure of the Postal Service, the security issues that we have all been so conscious of since September 11, and of course, the reputation for service that is just outstanding. If you ask customers across the country about their perspective of the service that the USPS provides, it is very high indeed, and especially due in no small part to the work of Mr. Olihovik in New Hampshire.

New Hampshire's Postal Service has received some of the highest quality ratings of any postal organization in the country because of the attributes that Wally and his counterparts have brought to it. He has been a great resource as a legislator. I am an engineer. What do I know about public employment or the Postal Service or



civil service rules or collective bargaining or these issues that I did not have to deal with necessarily in the private sector. So to have the postmasters and other postal workers in New Hampshire to be able to draw on as a resource have been invaluable to me.

While his professional service has been outstanding, as the Chairman pointed out to me, Wally is a three-time recipient of the Benjamin Award, which is given to those Postal Service employees that make an extraordinary effort in the area of community service. Just underscoring the degree to which Wally understands that lifetime commitment that he has made to the Postal Service and the postmasters extends to much more than just that 8 o'clock to 6 o'clock timeframe where you might be on the job.

I have been proud to work with the postmasters nationally and in New Hampshire on a number of issues. They have been outstanding to work with and, again, that is due in no small part to the perspective and leadership that Wally Olihovik has brought to the organization. It is a pleasure to welcome all of our panelists and to introduce Wally today.

Chairman COLLINS. Thank you, Senator. After we hear from Mr. Olihovik we will hear from Steve LeNoir, who is the National President of the National League of Postmasters. He also serves on the Postmaster General's leadership team, workplace advisory committee and mail security task force. Prior to becoming the national president of the league he served two terms as the South Carolina State president for the league.

Our final witness on this panel will be Ted Keating who is the Executive Vice President of the National Association of Postal Supervisors. He has been with the Postal Service for more than 40 years and has held numerous managerial positions during that time. Prior to becoming the executive vice president he served as the association's New England area vice president. So we have New England well-represented on our panel today.

Mr. Olihovik, we will start with you.

**TESTIMONY OF WALTER M. OLIHOVIK,<sup>1</sup> NATIONAL PRESIDENT, NATIONAL ASSOCIATION OF POSTMASTERS OF THE UNITED STATES**

Mr. OLIHOVIK. Thank you, Madam Chairman and Members of the Committee. On behalf of the 42,000 NAPUS members, thank you for inviting me to share my views with the Committee.

For well over 100 years NAPUS has advanced the quality of postal service to our customers, whether they reside and work in our largest cities or our smallest towns. NAPUS looks upon the Members of this Committee as loyal allies in the effort to ensure the success of the Postal Service. The long-term financial outlook for the Postal Service has not changed for the better. Growing electronic diversion, keen competition and lingering economic uncertainty continue to chip away at postal revenue.

Last year NAPUS applauded the Chairman's legislation that called for a Presidential Commission on the future of the Postal Service. Moreover, NAPUS was encouraged by many, though not every one of its recommendations. NAPUS was honored to partici-

<sup>1</sup> The prepared statement of Mr. Olihovik appears in the Appendix on page 84.

pate actively in the Commission process. Madam Chairman, there are those in the Postal community who believe incorrectly that postal reform is unnecessary. NAPUS disagrees with that view.

As you know, this Committee assisted the Postal Service, if only temporarily, by passing Public Law 108-18. The Civil Service Retirement System recalculation legislation provided a short reprieve. As part of your efforts to reform the Postal Service, Congress needs to revisit the pension issue in order to reverse the decision to shift the military retirement liability onto the Postal Service.

In addition, remedial legislation is warranted to permit the Postal Service to use the escrow that will accrue as the result of the CSRS calculation. The military retirement modification shifted a \$27 billion obligation from the Federal Government to the Postal Service. The President's Postal Commission recommended that this obligation return to the government. The Postal Service could use these much-needed funds to pre-fund retiree health obligations. Eliminating the escrow account would reduce the need for a postage rate increase in 2006.

NAPUS also believes that such funds could be invested in postal infrastructure that has been ignored for some time.

Over the last 2 years, the Postal Service has successfully reduced costs to balance shrinking revenue. However, the Postal Service cannot continue to chip away at costs without influencing the quality of mail services that Americans expect and demand. Rather, we need the tools and flexibility that are essential to grow revenue. A more comprehensive approach is necessary which addresses the operational, regulatory, and financial needs of the Postal Service.

This Committee is familiar with the alarm sounded by many in the Postal community as well as the General Accounting Office about the fiscal condition of the Postal Service. Just 2 months ago President Bush urged Congress to enact postal reform legislation. The basic and uncontested mission of the U.S. Postal Service is that every mailer and mail recipient in this country has access to an affordable and universal postal network. President Bush prefaced his announced principles for postal reform by stating that comprehensive postal reform must ensure that the U.S. Postal Service can continue to provide affordable and reliable universal service. For NAPUS, universality and reliability are paramount as this Committee pursues its much-needed reform of the Postal Service.

It is immaterial whether the postal customer resides or works in a rural, urban or suburban setting. All communities are entitled to high-quality mail services. Congress emphasized its strong interest in protecting universal postal access through the Postal Reorganization Act of 1970 stating, no small post office shall be closed solely for operating at a deficit. Last July the President's Commission on the Postal Service made a number of recommendations relevant to postal infrastructure.

One of the noteworthy Commission conclusions was that any post office necessary for the furtherance of universal service should not be closed solely because it is unprofitable. Closing small post offices would be a dreadful and misguided strategy. Such actions would have a devastating effect on many communities yet have little impact on postal finances. As Robert Cohen of the Postal Rate Com-

mission testified before the Presidential Commission, closing the 10,000 smallest post offices would only net a savings of about \$567 million, considerably less than 1 percent of the Postal Service's operating budget. The postal network is not merely the sum of its parts. It is an integrated system which relies even on its smallest components.

Americans expect access to a full-service post office. The Postal Service's own transformation plan recognized this reality. Despite the fact that 70 percent of postal customers were aware that postal products may have been available elsewhere, 80 percent of stamp sales continue to take place at the post office. NAPUS has worked with communities in safeguarding their legal rights to protect their post office. As part of this effort NAPUS publishes and circulates the red book, a NAPUS action guide for preventing the closing and consolidation of your post office. In addition, NAPUS has worked closely with the Congressional rural caucus to safeguard a community's due process rights.

Madam Chairman, I request permission that the Committee include the NAPUS action guide in the official hearing record.

Chairman COLLINS. Without objection.

Mr. OLIHOVIK. Post offices provide exceptional value to mail products, including essential mail security through secure post office boxes at convenient locations staffed by quality, trustworthy, knowledgeable, reliable and accountable postal personnel. Postmasters fully recognize and embrace the principle that a postmaster must be accountable. However, daily teleconferencing with middle postal management is not accountability. Unfortunately, all too often this is used as a form of micromanagement. Postmasters cannot be accountable to everyone at every level of the postal bureaucracy. Therefore, NAPUS was pleased that the President's Commission embraced our recommendation that the Postal Service must focus on removing layers of managerial bureaucracy with an eye toward simplicity and downward delegation. We hope that postal headquarters will apply this suggestion.

Indeed, the ability to reach postal excellence relies on the availability of appropriate and fair incentives. The Postal Service recently implemented a new pay-for-performance system to replace the controversial EVA program. The key ingredients to its success are upfront, well-planned incentives and performance goals and good communications. Three components comprise the performance aspect of the new pay system. The combination of reaching corporate and unit goals make up 80 percent of the performance incentive, meeting the core requirements of the job covers the remaining 20 percent of the incentive. The link between performance incentives and achieving corporate goals reflects a strategy employed by the private sector.

Although I am cautiously optimistic about the success for the new pay system, I strongly feel that the Postal Service must do a better job defining the core requirements. Many postmasters throughout the country have communicated to me their concerns about the implementation of the pay system. Make no doubt about it, NAPUS fully supports a fair pay-for-performance system. However, what looks good on paper may be challenging in practice. There is no substitute for communication and collaboration. The

agency's difficulty in communicating the system to its own managers, however, concerns me.

It is important to note that it is difficult to manage a postal facility when performance incentives are inconsistent. The managerial force is compensated using a system that rewards performance. The current salary structure for craft employees does not reward excellent performance. Unless we are somehow able through collective bargaining to create a pay plan that rewards individual or unit achievement, we will miss a crucial opportunity to optimize efficiencies and encourage exemplary performance. In sum, the present pay system compromises the workplace by rewarding one set of employees yet influencing another. This practice adversely affects morale and performance.

We must do a better job with our unions to train employees to perform different tasks within the post office. We should work with the crafts to lower or eliminate barriers that preclude postmasters from assigning personnel different duties within a post office. Postal employees should have the flexibility and training to cross over and perform a variety of tasks. I would also suggest that cross-training improves job security for those employees whose skills could become obsolete.

Finally, NAPUS remains extremely concerned about the Presidential Commission's suggestion to sunset FEHBP and FERS coverage of postal employees. The proposal would subject health and retiree benefits to collective bargaining. My two primary concerns with the proposal is that it does not address the impact upon current and future postal retirees, and it ignores the effect that separating out postal employees would have on the entire Federal benefits program.

Madam Chairman, this concludes my remarks. I look forward to working with you and the other Members of the Committee as we strive to ensure the Postal Service will thrive for many years to come.

Chairman COLLINS. Thank you. Mr. LeNoir.

#### **TESTIMONY OF STEVE LeNOIR,<sup>1</sup> PRESIDENT, NATIONAL LEAGUE OF POSTMASTERS**

Mr. LENOIR. Madam Chairman, Members of the Committee, thank you for inviting me to appear before you today. My name is Steve LeNoir and I am President of the National League of Postmasters. I welcome this opportunity to discuss with you the important issue of postal reform. With your permission, I would like to enter my written testimony into the record and then proceed to give a short summary.

Chairman COLLINS. Without objection, all statements will be submitted in full for the record.

Mr. LENOIR. Starting in 1887 to represent rural postmasters and formally organized in 1904, the National League of Postmasters is a management association representing the interest of all postmasters. Although we represent postmasters from all across the country, from the very smallest to the very largest, rural post-

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<sup>1</sup> The prepared statement of Mr. LeNoir appears in the Appendix on page 111.

masters are a sizable portion of our membership. The league speaks for thousands of retired postmasters as well.

Madam Chairman, we would like to thank you and your colleagues on the Governmental Affairs Committee for your dedication to the issue of postal reform. Postal reform is critical to the long-term ability of the Postal Service to provide for affordable, universal mail service to every individual, home, and business in America.

There is no doubt that the Postal Service needs fundamental change. We know that our jobs and those of the people we manage are ultimately at stake. While we know that the Postal Service's transformation plan takes us in the right direction, we also know that legislative reform is necessary to finish the process. We commit ourselves to work with you to make this a reality.

Madam Chairman, the most critical issue facing the Postal Service now is the Civil Service Retirement System issue. Last year's legislation corrected an overpayment to CSRS that saved the Postal Service billions of dollars but put those savings—from 2006 on—into an escrow account. The Postal Service has suggested using the savings to pre-fund its retiree benefits, thus funding one of the biggest unfunded liabilities the Postal Service will face in the future. We think that is an excellent idea.

Also last year, CSRS legislation forced the Postal Service to assume the responsibility for \$27 billion of military retirement benefits that were earned by postal employees before joining the Postal Service. That responsibility is not one the Postal Service should bear and it deserves to be transferred back to the general Treasury. We strongly urge Congress and the Committee to make both of these issues a top priority.

This past year postal headquarters, the National League of Postmasters, NAPUS and NAPS worked for 11 months to develop a new pay-for-performance system. In the past, compensation systems for postal managers were an all or nothing system. You either met the goal or you missed it. Now we have created a new compensation system for postmasters and other managers that we believe will be a good driver of productivity. It recognizes individuals not only for their contribution to the corporate goals but also for their individual performance. It drives the right behavior by constantly encouraging individuals to strive for stretch and breakthrough productivity. Even small measures of improvements will be rewarded.

The new pay-for-performance system takes three factors into account: How we perform nationally as a Postal Service, how our post offices performed, and how we performed as an individual. Everyone is aligned with their performance goal. It is a concept of recognizing both team and individual performance that we have never had before. I believe we have developed a fair system and the Postal Service has committed to review the process after the first year to see if any adjustments are needed.

The compensation system for rural carriers is also a good driver of productivity in that it provides for an evaluation system that is paid by the workload. It includes a combination of mail volume, the number of deliveries, mileage, and stops. This process provides a win-win situation for both the rural carriers and the Postal Service.

While the league is pleased so far with the new pay-for-performance system we do believe there are too many layers of management between postmasters and postal headquarters and some of that should be removed. We strongly feel that postmasters should have the authority to manage their post offices without being micromanaged.

Another problem that we see is that promotions in craft positions are determined by seniority. In many cases the most senior person is not the best qualified for the job. It is not that he or she may be a bad employee, but just not the right person for a particular spot.

Moreover, we need much more flexibility in how we are able to use our craft employees. Current rules prohibit craft employees from doing work in other crafts. We could greatly improve efficiency if we had more flexibility.

We also need to address the issue of sick leave for FERS employees. Currently they get no credit for unused leave at retirement. We need to change this rule so they could sell back sick leave or get credit at retirement.

One area in which we have made considerable progress is that we have reduced the number of grievances filed by employees. We need to continue to make progress in this area and work with the unions to revise outdated work rules.

An issue that does cause us concern is the possibility of closing rural post offices. I appreciate your comments earlier and strongly agree with your sentiments. The National League of Postmasters is concerned that access to a post office in a rural community could dramatically change if postal reform is not implemented properly. We are particularly concerned that overzealous individuals could develop a mistaken belief that closing small post offices would net meaningful savings for the Postal Service. As my counterpart pointed out, the facts do not support that. The record shows that the cost of the 10,000 smallest post offices is less than 1 percent of the Postal Service's total budget.

We believe there is great value in our network of over 26,000 post offices and we have not yet fully maximized that value. We are suggesting that in rural areas where the private sector does not provide adequate services, the Postal Service could fill that gap. For instance, in my community of Horatio, South Carolina, I added a fax and copy machine to my post office because the closest business that offered that service was over 20 miles away. That served our citizens well, had no effect on the private sector, and has paid for itself many times over.

Also, the Postal Service could partner with State and Federal Governments. For instance, we could offer voter registration in our offices, making it easier for our citizens to participate in the democratic process. We could also assist in gathering census data in rural areas and play a role in homeland security. The league believes that providing universal service means not only providing universal mail delivery to all citizens but also providing equal access to postal services including a post office.

The Postal Service has an obligation to provide quality postal service and access to post offices on a universal bases regardless of whether a post office is considered profitable. We urge this Com-

mittee to see that a definition of universal service in any reform bill makes it clear that post offices are necessary to fulfill the universal service mandate, particularly in rural areas where post offices play such a critical role.

Madam Chairman, rural post offices are key to a healthy rural economy and are necessary to provide universal service in America. As supported by our written testimony, the local post office is an American institution that literally binds rural America together politically, socially, and economically. It is the lifeblood of rural communities and it should not be harmed.

No less important are smaller post offices in inner-city areas. They provide a vital link to the Postal Service and the country and they should also not be harmed. While we understand there may be legitimate reasons to close a post office, we do not believe that existing rules pertaining to the closing of a post office should be changed. These rules are fair to customers, local communities, and the Postal Service. Let us work to make post offices not only a lifeline to customers but also a positive link to government at all levels.

We think there is great value in our network of post offices. The American flag is raised at post offices every day all across this country. The tradition of postmaster, starting with Ben Franklin in colonial times is connected to the many freedoms enjoyed through the Constitution of the United States and the Bill of Rights. It supports and enables many of the rights given to us. Universal service is important to all Americans in the equal opportunity it provides.

I would be happy to answer any questions the Committee may have.

Chairman COLLINS. Thank you. Mr. Keating.

**TESTIMONY OF TED KEATING,<sup>1</sup> EXECUTIVE VICE PRESIDENT,  
NATIONAL ASSOCIATION OF POSTAL SUPERVISORS**

Mr. KEATING. Thank you, Chairman Collins, for the opportunity to appear on behalf of the 36,000 postal supervisors, managers and postmasters who belong to the National Association of Postal Supervisors. I, too, will abbreviate some of my testimony since you have the complete written record, and I will go right to our testimony.

We agree with the Postal Commission that the current network of post offices and plants requires streamlining, leading to the closure of unneeded facilities to ensure that universal service is delivered in the most effective and cost-efficient manner possible. Indeed, many of the Nation's post offices are probably no longer necessary to fulfill the universal service obligation. Streamlining or rationalizing of the postal network should be carried out on a comprehensive basis under the authority and control of the Postal Service in consultation with Congress and its stakeholders. The ultimate aim should be to arrive at cost savings while preserving affordable, universal service.

We see no need for the establishment of a postal network optimization committee as recommended by the President's Commission applying a base closing approach towards unneeded postal facili-

<sup>1</sup> The prepared statement of Mr. Keating appears in the Appendix on page 128.

ties. A base closing approach with P-Noc preparation of recommendations to Congress to consolidate and rationalize the service's processing and distribution infrastructure will only delay and diffuse the decisionmaking that should remain in the hands of the Postal Service. The Postal Service is the best equipped entity to arrive at the optimal number of locations and functions for mail processing and distribution functions just as the Postal Service is similarly equipped to arrive at the number of locations and functions for post offices.

Under current law, the Postal Service is not allowed to close post offices for economic reasons alone. The Commission recommended that such statutory restrictions be repealed and that the service be allowed to close post offices that are no longer necessary for the fulfillment of universal service. We agree and urge the Congress to grant to the Postal Service the flexibility and necessary accountability in a fair and rational way to fulfill its universal service obligation in a cost-efficient and effective manner.

Adversarial labor-management relations have been a persistent cause of problems in operational efficiency as well as the culture and work-life of the Postal Service. The General Accounting Office and others have repeatedly documented the degree to which poor communication, persistent confrontation and conflict, excessive number of grievances, and difficult labor contract negotiations have persisted within the Postal Service. From my perspective as executive vice president of one of the foremost management organizations within the service, progress is being achieved in fostering better communications at the national level between the Postal Service and the leadership of the craft unions and management associations.

However, progress at lower levels and other areas continues to remain uneven, especially in the resolution of grievances. The Postal Commission noted that encouraging progress is being made by the Postal Service and one of its unions in resolving grievances through the use of a streamlined process involving a dispute resolution team comprised of representatives of management and craft. We believe the dispute resolution team approach is best directed to the resolution of contract related disputes in the field where they began while workplace or environment disputes are best resolved by mediation.

We also are concerned by the growing reliance by dispute resolution teams of non-binding arbitration decisions as precedent. We encourage the Committee to continue its oversight on this particular endeavor.

Over the past decade the Postal Service has led the Federal Government in efforts to build incentive-based, performance-driven compensation systems. It has followed the lead of cutting edge organizations in the private sector in using performance management systems to accelerate change and improve individual and organizational performance. Incentive-based systems within the Postal Service currently apply only to the performance of executive managers, postmasters, supervisors and other non-bargaining management employees covered under the EAS salary schedule.

More recently the National Association of Postal Supervisors and the postmaster organizations have collaborated with the Postal



Service in establishing a new pay-for-performance system, reshaping the EVA system first established in 1995 that better rewards teamwork, efficiency and service quality in a fair manner. Measurable and realistic goals are now being established at the unit, district, and area levels as part of the new system. Progress in this area is being made.

We agree with the Commission that it is time to expand merit-based pay to the entirety of the postal workforce, including bargaining unit employees. The establishment of an incentive-based culture of excellence in any organization relies upon performance management systems that reach across the entire organization and cover all employees, not only those in the management ranks. The Commission urged the Postal Service to undertake a study of performance-based compensation programs for both management and union employees and work with the unions and management organizations to design and implement a performance-based compensation system. We are counting on the Postmaster General and the craft unions to negotiate some form of pay-for-performance at the bargaining table.

We also urge Congress to repeal the current statutory salary cap as it applies to the Postal Service and authorize the Postal Service to establish rates of pay for top Postal Service officers and employees that are competitive with the private sector. Pay compression of salaries at the top, leaving little financial incentive for top mid-level employees to take on new levels of responsibilities, are hindering the Postal Service from recruiting the best and brightest to top leadership positions. The cap should be lifted and the Postal Service should have the discretion to set compensation to attract and retain qualified individuals in the upper management ranks. Many Federal entities that require a capable, experienced CEO and other top officers already have pay-setting authority. They include the Tennessee Valley Authority, the Federal Reserve Board, the Public Company Accounting Board, and the Federal Home Loan Bank Board.

Additionally, we encourage the Committee to take a critical view toward the necessity of establishing a new regulatory body such as a postal regulatory board to assume authority over total compensation, scope of the monopoly, and definition of universal service as well as other important policy and regulatory powers exercised by Congress, the Postal Rate Commission and the Postal Service itself. Similarly, we question the wisdom of subjecting the Postal Service pension and post-retirement benefits to collective bargaining. This could significantly impact the vitality of the entire Federal pension and retiree health benefit programs and we caution the Congress to move very carefully in full consultation with the postal stakeholder community before proceeding in these areas.

We support the Postal Service's proposal to eliminate the escrow requirement so the service will not have to include the \$3 billion as mandated incremental operating expense in fiscal year 2006. The service cannot use the escrow funds unless Congress eliminates the escrow requirement or specifies by law how these funds may be used. If no action is taken, the unavoidable necessity to raise rates higher than necessary will come about. This can and should be avoided.

We believe that improved and continued communication by the Postal Service with Congress over how it will address its long term challenges and fund its retiree obligation should provide Congress the information it needs and assurances to eliminate the escrow requirement.

We also support relieving the Postal Service of the burden of funding retirement benefits attributable to military service and returning that responsibility to the Department of the Treasury. We support the use of these savings to pre-fund retiree health benefits, obligations for current and former employees estimated at approximately \$50 billion dollars. Under this proposal the funds would stay in the Civil Service Retirement System and therefore would not impact the Federal deficit.

Finally, we have recently been apprised of a difference in methodology used by the Office of Personal Management and the Postal Service in determining the Postal Service's CSRS obligation. We were quite surprised to learn that according to the Postal Service's calculations its obligation is \$86 billion less.

Chairman Collins, thank you for the opportunity to present these views. We look forward to working with you to secure postal reform and I am available to answer any questions that you have. Thank you very much.

Chairman COLLINS. Thank you very much. I want to thank you all for sharing your experience with us. We are now going to begin a round of questions of 7 minutes for each of us.

All of you have considerable experience in the Postal Service. Each of us is committed to universal service, to making sure that we strengthen and preserve the Postal Service. You have all stressed the need for us to act on the military pension issue and the escrow account issue. I cannot help but point out, even though I am on the House side, that the original Collins-Carper bill did not have an escrow account in it and it is something, on those two points, where I am very sympathetic to the opinions that you have expressed.

But putting aside those two issues which are clearly among your top priorities, if you were going to advise the Committee on what two reforms you think should be included in our legislation and are absolutely imperative for the future of the Postal Service, what would they be? I would ask you to give us the benefit of your many years of experience here as opposed to just representing your members in replying to us. We will start with Mr. Olihovik.

Mr. OLIHOVIK. I think the thing that is absolutely critical to NAPUS is the universal service aspect. But the two reforms I think that the Postal Service needs is really the flexibility and price-setting because in today's world, the archaic structure of the way we do things now, it just does not make sense. It does not allow this organization to react in any kind of a timely manner. It is approximately 12 to 14 months before the Postal Service realizes it has a problem, has to put in a new rate structure, and has the ability to get the new rate approved. So, we need some more flexibility.

I think the flexibility aspect is as far as where we want to go. I am very supportive of the new pay-for-performance program. I absolutely live by my remarks. I think we need to extend that even further into the system. It is a well-thought out program. I did

preface some of my remarks that I still have a little bit of concern. But I am still very cautiously optimistic that at the end of the day this is going to turn out to be right for the Postal Service. And I am proud that the Postal Service brought us in early on to listen to our points of view.

But I think as we are looking down the road, any healthy organization needs all its parts pulling in the same direction. This program as we have developed it is geared for excellence, and I think that if we can somehow get the crafts to come to the table and be part of the process I think that will go a long way into turning this whole organization in the right direction.

Chairman COLLINS. Thank you, Mr. Olihovik. Mr. LeNoir, same question for you.

Mr. LENOIR. I would think, give us flexibility in our rate-making process. I understand that we have monopoly products like First-Class Mail, but there are other products that I think we need more flexibility and not as much oversight where we have competition. Currently it takes us—our competitors can change rates overnight where we have to go through a very long process and lay everything out on the table. Then our competitors set their rates according to how that process works out. So I do believe we need more flexibility in the rate-making process for non-monopoly products.

Also I think we need more flexibility in the way that we can use our employees. In the larger post offices, sometimes you cannot cross crafts, like a clerk could not do carrier work. We have a number of employees but we cannot necessarily use them like we should if we had more flexibility to use those employees.

Chairman COLLINS. Thank you, Mr. Keating.

Mr. KEATING. I agree with my two colleagues. I think pricing and flexibility is the key most important issue being addressed and that the Postal Service needs to continue. The other issue I think would be to convince Congress to allow the Postal Service to make those decisions necessary. I believe they are the best qualified people to move ahead with a transformation plan and allow them to make the decisions necessary and not have to answer to any further regulatory boards than they already have. Thank you.

Chairman COLLINS. As I was preparing for this hearing I reviewed the worker's compensation program of the Postal Service. I was surprised to learn that in the Postal Service, if you are on worker's compensation you can choose to stay on worker's compensation even after the normal retirement age. There is in fact a 102-year-old postal employee who is still receiving worker's compensation benefits. I also found that there were hundreds of cases where individuals have been receiving worker's compensation for longer than 30 years, and that there were over 1,000 cases where the individual had qualified for worker's comp benefits between 20 and 29 years ago.

It seems to me that this is an area that we need to take a close look at given the enormous unfunded liability for worker's comp in the Postal Service. Could you share any views with the Committee based on your experience on whether you think this is an area that reforms need to be undertaken? Mr. Olihovik.

Mr. OLIOVNIK. Senator Collins, I would not by any means classify myself as a compensation expert. It is a very confusing process. I

know as a postmaster some of the greatest frustration that I have experienced was going through the worker's compensation merry-go-round. I think outside of the job of postmaster, one of the most challenging jobs you can have in the Postal Service is in injury compensation. Worker's compensation is probably equally challenging.

It is clear to me talking to some of the experts back in the district, whether it be in Massachusetts or New Hampshire, that there is clearly a level of frustration out there with the system. It needs to really be drastically looked at and in some cases probably overhauled. We cannot make it comfortable where people are sitting home. We have got to do the right thing for people that are injured. There is no doubt about that. But we cannot create a situation where our hands are tied.

That is about the only thing I can share. I know that from a district level there is a tremendous amount of frustration with the system as it presently exists.

Chairman COLLINS. Your point is a very good one. We do need to make sure we have a system that is fair and compassionate to injured employees. I was, however, alarmed at some of those statistics, particularly when you look at the unfunded liability.

Mr. LeNoir.

Mr. LENOIR. Madam Chairman, you point out a very legitimate issue and I think we need to work to get it corrected. That would be the short answer.

Chairman COLLINS. Thank you. Mr. Keating.

Mr. KEATING. Chairman Collins, I read that same report that you referred to and I was amazed at what the report entailed. I worked in finance for most of my career before coming to Washington and I can tell you that it has been a system out of control for a long time and it needs an overhaul and complete look at.

Chairman COLLINS. Thank you. Senator Akaka.

Senator AKAKA. Thank you very much, Madam Chairman. I wish to thank all of you for your excellent testimonies. As the elected leaders of the Postal Service's management associations you know firsthand that modernization of your agency is critical for its survival. Your counsel and your guidance is greatly appreciated.

My first question is directed to Mr. Olihovik, who like Mr. LeNoir and Mr. Keating, collaborated with the Postal Service on its new pay performance system for non-bargaining employees. I believe Mr. Olihovik appropriately raised several valid concerns over the success of the new pay system, including the need for managers to be trained in implementing the system. I agree that without a credible, transparent, and accountable management plan in place putting a pay-for-performance system in place is risky.

My question is, how would you strengthen the new pay-for-performance system for postal managers and what would need to be done to bring all employees, including union workers, under a pay-for-performance system? I would like to have both Mr. LeNoir and Mr. Keating respond to this as well.

Mr. Olihovik.

Mr. OLIOVNIK. Senator Akaka, before I respond to that I would be remiss if I once again did not thank you for your support and leadership in promoting the Postmasters Equity Act. You have

been a strong friend to postmasters for many years and I do thank you for that.

Your question is a good one. I will go back to some of the things that I said in my prepared remarks. I think the most important thing that you can do in any new program that you have is good communication. I think the Postal Service is trying to do that. I am trying to be as patient as I can with this. I accept my responsibility as a management association head as far as helping the Postal Service build this program, and I am going to do everything I possibly can to make sure that it is successful.

Like any program there are some difficulties, some stops and starts. Convincing people of a whole new way of doing things is hard. As I referred to the core goals, we are having some issues there. That is 20 percent of a postmaster's performance compensation. It is not that the Postal Service, from the headquarters viewpoint, has not been trying. They had a major seminar just a couple of months ago. They invited the management associations to be a part of that seminar, and spoke to a large group of human resources people throughout the country. So everybody was in attendance. They were all hearing a very clear, consistent message.

It is a whole new way of doing things, and as I said, it is the right way to do things. But I still think we need a little bit more clarification and communication on specific aspects of it. Having done that, I think that this program is going to work and I think it is going to be one of the best things that has happened to all people and management.

Getting to the second part of your question, Senator, as far as extending it to the crafts, quite honestly it goes to one question and it is bedrock in everything that we do, in all our relations. It comes down to the word trust. They have to trust in the system. They have to believe in the system. So as managers we have to lead the way and show that it is a good system, it benefits and rewards excellence. I think if we allow them the input through the collective bargaining process I think that they will work to craft it—intelligent people usually do intelligent things. I think that they will buy into the process, and once they do that, having everyone as a total group striving for excellence together is the right way for any successful organizations to go.

Senator AKAKA. Thank you. Mr. LeNoir, would you like to comment on the Postal Service's pay-for-performance system?

Mr. LENOIR. Yes, Senator Akaka. I also thank you for your help with the Postmasters Equity Act. All three of us at this table helped design that system and I think that, like I said, it is not perfect and we realized it would not be perfect the first year we rolled it out. But I certainly think it is a stride in the right direction.

The Postal Service has committed in April to sit back down with us and revisit the system and look at where we may have some shortcomings. So we look forward to that opportunity. As my friends stated, the core goals are a concern to us and we have to make certain we get that process right. But I really think we have made a lot of progress in this new system, and like I said we look forward—we realized there would be problems rolling it out. We were late getting the goals out to the employees because it was the

first year rolling it out. But I believe next year things will smooth out and it will continue to improve and lead us in the right direction.

The second part of your question is about incentives for other workers. I believe we have different systems in place. As I said, the rural carrier system seems to work very well in that they have an evaluated system and it goes by the amount of mail they get, the number of stops they get. If they finish their route early, they are able to go home. So that gives them incentive to work as efficiently as possible and complete their route so that they can go home.

But on the other hand, a city carrier, he is there for 8 hours and if he works very fast he is given additional work to do when he gets back to the office. And if he works very slow he is given overtime. So I just think the two systems, as you can see they are like night and day, and I think we need to work to try to get everybody on some type of incentive-type system.

Senator AKAKA. Thank you. Mr. Keating.

Mr. KEATING. Yes, Senator. Wally in his testimony expressed some reservations about this, and I think we all have reservations. The system is so brand new. We are still in the process of rolling out to the field. I think if you took a census of my membership they would probably say we are crazy for doing this, but the leadership decided that this was the way to go. As far as, the Postmaster General is on record numerous times, even last night at the league's dinner, saying that this is a work in progress. We will continue to work out the problems as it goes. It is an experimental type year. I am convinced that we can make it work.

And to the second part of your question, quite honestly, the only way that this is going to be ever sold to the unions is that it does work. It has to work in order to convince the unions to buy into the process.

Senator AKAKA. Thank you very much for your responses. My time has expired.

Chairman COLLINS. Thank you. Senator Carper.

Senator CARPER. Thank you, Madam Chairman. As I said to you in our earlier conversation, I may have to slip out to get on a teleconference call. If I do, I ask your indulgence.

I want to stick with this issue of pay-for-performance for a moment. In the past some pay-for-performance systems have been criticized for being wasteful, even ineffective. Do you agree with that? If so, how is the new approach better?

Mr. OLIHOVIK. I am sorry, I did not hear the first part of what you said.

Senator CARPER. I said in the past some of the pay-for-performance systems that were espoused by the Postal Service have been criticized for a variety of reasons, for being wasteful, for not being very effective. I do not know if you agree with that or not. If you do or do not, just tell me. And if you could, just let me know how this new system, this work in progress, is better.

Mr. OLIHOVIK. Under the system that we had before, the EVA program, (economic value added) the main problem we had was that it was not well explained and to my understanding not too well understood by too many people. I think with the new program there is a clearer definition.

I think especially with 80 percent of the performance pay being objective. It is very objective. Twenty percent with the core requirements are subjective. That is what we are trying to convince people of. With the objective part, you hit the number or you do not hit the number. But it is not a finish line mentality. You can come close to the number and be rewarded. And if you go significantly past the number you are rewarded to a greater extent.

So I think people understand that concept. I certainly understand that concept and I certainly support it. I would not characterize the old system as being really wasteful but I would probably classify them more as not being well understood.

Senator CARPER. Thank you. Mr. LeNoir.

Mr. LENOIR. Senator Carper, under the old EVA system you were connected to your district's goals. Say, for example, you are in a area, like Columbia, South Carolina, if they had a bad year and my little town of Horatio had a good year, I was in a geographic region and we were all hooked together.

Now we have designed a system that measures how we perform nationally, how your post office did, and how you did as an individual. So we feel like it is a lot more—we are accountable for what we do now and it is a system that drives us to do better in our offices instead of being grouped with a large number of people.

Senator CARPER. Thanks. What town was it, Horatio?

Mr. LENOIR. Horatio, South Carolina.

Senator CARPER. Where is that located?

Mr. LENOIR. It is near Sumter. I tell everybody it is between Pixley and Hooterville. But it is a very small town. [Laughter.]

Senator CARPER. That clears it up for me. Thank you. Mr. Keating.

Mr. KEATING. Senator, what we had before was really not a pay-for-performance system. It was a team bonus system where if the team did well and the team was a large group, everybody benefited. But I do not think that can compare to the pay-for-performance system that we are putting in now. This is individual versus a team effort.

Senator CARPER. For us as Members of this Committee who are interested in postal reform, what do we need to be mindful of with respect to pay-for-performance system proposals and implementation?

Mr. OLIHOVIK. I think you should really take a close observation of it during this first year. As Steve said, we have a commitment from the Postal Service that if anything needs to be tweaked, that we will go back and we will make the necessary adjustments. We are fully supportive. This is a team effort. This is a group effort to do our level best to make this work, and I commend the Postal Service for leading with that attitude, and I am convinced that with some minor modifications that I anticipate we will make it work.

Mr. LENOIR. I think this new pay-for-performances, system, we were able to do it because we are managers and we are not bound by union contracts. That gave us the flexibility to develop this system. I think the challenge is going to be how we roll that down to the craft, to the lower levels.

Senator CARPER. Thank you. Again my question is, what are the implications for us as Members of this Committee, the Committee of jurisdiction, as we approach postal reform? Do we have an interest in this? Is this something that we ought to be mindful of? That is my question.

Mr. LENOIR. I do think and the Postmaster General said that we do support collective bargaining and I do not think that that is necessarily a fight that we need to take on.

Senator CARPER. Mr. Keating.

Mr. KEATING. Basically the same thing, I think there are some issues in communications that are not being addressed properly. It is going to take a lot of work on headquarters management organizations in the field. There has always been a problem between the Postal Service headquarters and the field in listening to and understanding communications sent out. We struggle with this all the time. We sit down at a bargaining table and agree to an issue and it gets misinterpreted, or misinterpreted by the time it gets down to the field level. I think it is ironic that we are in the communications business but we do not communicate with our employees and managers that well. We need to do better.

Senator CARPER. Thanks. Let me change gears, if I could, and talk about the accessing of retail postal services in places other than post offices themselves. Any of you have an idea of what percentage of the volume of mail services that provided like in a retail type setting, what percentage actually take place in a post office itself versus some other location? I have heard 80 percent in a post office. Does that sound about right?

Mr. OLIHOVIK. Right, that was in my prepared remarks with the stamp sales itself. I made the comment that even though 70 percent of Americans were well aware that retail services were available elsewhere outside of a traditional post office setting, that 80 percent of Americans continue to vote every single day to purchase those stamp sales at a traditional post office.

Mr. LENOIR. Senator, I think it is important to note that in large communities where lines are an issue it may be a good idea to have stamps available in Wal-Marts and other places such as that. But in our medium to smaller communities I think we would be making a big mistake to take the stamps and retail things out of their lobbies. Over 7 million people visit our lobbies each business day and we can use that as an opportunity to up-sell and sell additional products, and I think we would be making a mistake to try to drive them to grocery stores instead of the post offices where lines are not an issue in the smaller communities.

Senator CARPER. What are some examples of retail operations where people can avail themselves and buy postal services outside of a post office where it actually is a good value for the customer? Can you give us some examples of where it works well?

Mr. LENOIR. I am sorry, are you referring to something like stamp sales?

Senator CARPER. Basically.

Mr. LENOIR. Obviously like I said, in the larger markets it makes perfect business sense to make access more available, as the Commission suggested, and we totally agree with that. But in a small town where you might have three or four businesses and a



post office we do not think it makes good business sense to all of a sudden have stamps available at the gas station which is a mile down the road from the post office. We just think that would be shortsighted.

Mr. OLIHOVIK. Senator, in many of the larger cities we have what they call contract postal units and depending on which unit you look at they can work very effectively. I myself have one in Nashua, New Hampshire.

Senator CARPER. I was just in Nashua last Saturday. I was just there in the town hall up on the third floor introducing Joe Lieberman to a packed house. Boy, it was hot. That was the only time all day I was hot.

Mr. OLIHOVIK. I am sure you noticed what a friendly city it was.

Senator CARPER. It was great. People were wonderful.

Mr. OLIHOVIK. That is good to hear. In Nashua we have a contract postal unit. We pay a private contractor approximately \$100,000 a year to run this facility. They in turn generate \$1 million. That is pretty good value that the Postal Service is getting for its money. Many times when they work, you have got good people operating them. I do not have any problem with that. Sometimes you get other people operating them and they are not so good. But I can give you examples both ways.

By and large my experience with contract postal units, as they exist in large city settings, usually work pretty well. The Postal Service, even in its transformation plan, determined that basically for every dollar that they spend they are taking in \$10 in return so that is a pretty good margin.

Senator CARPER. I would say it is. Madam Chairman, I have a couple more questions I would like to submit in writing for our panel. Thank you very much for being here today and I am going to go jump on this call and be right back.

Chairman COLLINS. Thank you. The hearing record will remain open for 14 days for the submission of additional material.

Senator Durbin.

#### **OPENING STATEMENT OF SENATOR DURBIN**

Senator DURBIN. Thanks, Madam Chairman, and thank you for your courage and determination that this hearing would go on. Neither rain nor snow nor sleet nor ricin will stop this Committee from its appointed tasks, and I am happy to be here with you.

I have been to several of these hearings before and I am looking for recurring themes and I think I have found one. When we have postal labor witnesses they tell us the problem is management and the politicians. When we have postal management witnesses they tell us the problem is labor and the politicians. So I am beginning to find that there is one recurring theme here that perhaps we need to visit and that is what we need to do to try to resolve differences between labor and management and make the Postal Service more efficient and more modern in the 21st Century. This Commission is a good starting point but it is not the ultimate answer. It will undoubtedly be changed during the course of considering legislative options.

Mr. Olihovik, you testified before the Commission last April about the red tape and micromanagement the postmasters have to

deal with, and I would like to read part of your testimony. "Over the past three decades the Postal Service has mutated into a costly, multi-layered bureaucracy that has distanced postmasters from postal headquarters. Consequently, mid-level postal managers positioned at area and district positions often interfere with successful post office management and can undermine a postmaster's authority. It can be as petty as requiring a local postmaster to file triplicate requisition forms to purchase a roll of toilet paper." Was that hyperbole?

Mr. OLIHOVIK. No, it was not. That statement, and to the extent that it is happening today we still, I feel, have too many layers of bureaucracy. As I said in my prepared remarks, for the position of postmaster, we select people based on their background, their skill level, and the trust that we have in them to do the job. However in too many locations, not all locations, but in too many locations we do not give them the authority that they need to effectively do that job in the local community that they serve. They are micro-managed to some extent. They are answering to everybody and anybody at a district level. It is the type of situation when everything becomes a priority, then nothing becomes a priority. It makes it very difficult. I like to refer to it as the conflict of imperatives, who do I please first?

In the exact scheme of things, really a postmaster should report to a postal operations manager who in turn reports to the district manager. But too many times, in too many settings, you have got people in multi-departments, delivery departments, address management departments all interfering in the daily operation of a postmaster. It makes it next to impossible to manage the operation at times.

Senator DURBIN. It seems that you and postal labor agree on that point, that there is a lot of money and time wasted in bureaucracy. But you raise a point too that is closer to home to your personal interest, where you would suggest that the employees ought to give when it comes to their collective bargaining rights and benefits they currently receive. Most of you, though there have been some qualifications to this remark, are careful to guard the existence of post offices themselves, to try to find new ways to utilize buildings that currently provide postal services. Some of them are creative and interesting and I salute you for that.

But is that not part of our challenge here? From the labor side, they do not want to give us benefits. From your point, you do not want to give up the building that needs a postmaster. Are we going to have to ask both sides to be more accommodating to reach our goal?

Mr. OLIHOVIK. I think with the situation that we face in the Postal Service certainly everybody should be called upon to sacrifice. That goes across the board. As far as my relationship with the unions, I have a lot of respect for the unions. I have a good working relationship with the people. I think one of the benefits that we have now with Jack Potter is some of the people that he is dealing with on a national level, the presidents of the unions, I think have come around to a 21st Century viewpoint on just what is best for the organization. We all have to be smart and realize that if there is no Postal Service, there are no postmasters, there

are no letter carriers, there are no mail handlers. So we have to do what is right for the Postal Service.

As far as the question regarding small post offices, there are some that make the argument that there are too many out there, that we do not need every one that we have, that you cannot close small post offices. Senator, I would say that is not the case. There is nothing right now that prevents Postal Service headquarters from closing a small post office. If you look in the last 30 years itself—

Senator DURBIN. Except for elected officials.

Mr. OLIOVICH. We have a process in place. It is a recognized process. When the process has been followed to close a small post office, we have in fact closed 14,000 small post offices over the last 30 years.

Senator DURBIN. It is devastating, as most people know, to small towns to lose a post office. Sometimes they just disappear at that point. That is all that is left. I saw one up in Alaska, and frankly it was in the middle of Arctic Village, Alaska and it was one of the few things there that appeared to have any connection, direct connection with the outside world.

Mr. LeNoir, you talked about things we could do with post offices, some of them very imaginative, creative things that we might accomplish there. But are we postponing the inevitable if we try to find new ways to use post offices that go way beyond their original purpose?

Mr. LENOIR. Senator, absolutely not. I come from a rural town, I have been postmaster in the town for 23 years and they have less than 5,000 people in that town. That post office is so much more than just a building to them. A rural carrier going in front of somebody's house does not give you the same service that a post office does. I have people in my community that did not have the educational opportunities and I help them fill out money orders, answer and read mail. Those people are not second-class citizens. I have a gentleman that comes up on a riding lawnmower every day. That is his mode of transportation. To those people, this is essential for them to have a post office there, not just a carrier going by their house.

I feel very strongly that if we are going to have those offices out there, we need to figure out the best way that we can utilize that network. As I have stated in my written testimony, that network of post offices, 26,000 all across this country, no private industry can touch that. I do not think that we have fully utilized those post offices. In rural areas like mine where there is no competition with the private sector, I think there is a lot of things we could do that would not step on the toes of the private sector and would bring those offices closer to profitability.

Senator DURBIN. Can I ask a question that is only somewhat related to an issue that has been before us but I am curious, do any of you have postal employees who have been activated in the Guard and Reserve for Iraq or Afghanistan or any other theater at this point?

Mr. LENOIR. We are not at our offices now but we know of plenty of postmasters that have been.

Senator DURBIN. Those postal employees that are activated, is there a policy in the post office to protect their income, to hold them harmless while they are activated Guard and Reserve?

Mr. LENOIR. I would have to get back with you on that. I am not certain.

Senator DURBIN. I think the answer is no. I only raise that, not in criticism of you but in criticism of the fact that here we are in the Federal Government not doing what States and local units of government and private corporations do, which is stand behind the men and women who are activated. We passed an amendment which I offered on the floor in the last omnibus appropriation bill to say we would hold Federal employees harmless who are activated, and 10 percent of all Guard and Reserve are Federal employees. Unfortunately, when it went to conference it was stripped out, not by the House but by the same Senate that had put it in the bill. I hope we can return to that this year.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you. I would like to thank our panel of witnesses for your excellent testimony today. We want to work very closely with you as we proceed from here and take advantage of the many years of experience that you have. So thank you so much for being here today.

I would now like to call forward our second panel of witnesses. We are very fortunate today to have three very distinguished experts in the area of labor relations. John Wells is a labor relations consultant and a commercial arbitrator. He also served as the director of the Federal Mediation and Conciliation Service during President Clinton's Administration. Both his current and previous work have provided him with extensive public and private sector experience with the collective bargaining process.

Dr. James Medoff is a professor of labor and industry at Harvard University. He is considered to be one of the foremost experts on matters pertaining to labor unions and the role that they play in our economy. He has also served as a consultant to the National Association of Letter Carriers.

Dr. Michael Wachter is the William B. Johnson Professor of Law and Economics at the University of Pennsylvania. He has conducted extensive research on the topic of postal wage compatibility and comparability with the private sector. He has also served as a consultant for the Postal Service.

Gentlemen, we are very pleased to have you here today. You do represent a great deal of expertise that the Committee is going to need the help of people like you, your help as we seek to tackle these very difficult issues.

Mr. Wells, we will begin with you.

**TESTIMONY OF JOHN CALHOUN WELLS,<sup>1</sup> PRIVATE CONSULTANT, FORMER DIRECTOR OF FEDERAL MEDIATION AND CONCILIATION SERVICE**

Mr. WELLS. Thank you, Madam Chairman. My name is John Calhoun Wells and I am proud for the gracious invitation to appear before you and this Committee today.

<sup>1</sup> The prepared statement of Mr. Wells appears in the Appendix on page 135.

If I may be permitted a personal note, I was looking forward to testifying at the Dirksen Building because as a young pup right out of graduate school I went to work for a former colleague of yours, former U.S. Senator Wendell Ford, in 1975 to 1978 and served in the Dirksen Building. Then when we came here I was disappointed except I looked and realized that this is a room in which I had testified before Chairman Jack Brooks several years ago. And I moved from Kentucky to Beaumont, Texas where I found my bride and became a good friend of Chairman Brooks and shot ducks with him. So I feel reassured looking here to testify before this August body with this picture of Jack in front of me.

I am going to summarize the opening part of my remarks for you and then focus more principally on the latter part which deals with the issues you have before you. I did in fact serve from 1993 to 1998 as President Bill Clinton's Director of the Federal Mediation and Conciliation Service. I really came to that job with a lifetime of experience in collective bargaining and labor relations. Every member of my family has been a member of a labor union, including myself. I was Kentucky's first for secretary of labor.

As FMCS director I handled an unusual number of difficult situations and strikes, the most infamous of which was the UPS strike with the Teamsters. I see Senator Durbin there and I am reminded of the Caterpillar strike that I personally handled for 4 years, 3 months, and about 7 or 8 days. I would have left earlier. Your dear colleague and my friend, the late Senator Paul Simon, was extraordinary helpful, always behind the scenes. Never wanted any publicity. And without him that strike may have still been going on.

So I have had the experience of very difficult and unpleasant labor situations. As a native of eastern Kentucky, we had a good number of them in the coal fields as well.

But I have also served to help build labor-management partnerships between organizations like GTE and the CWA and IBEW unions, and also Kaiser Permanente and AFL-CIO. I guess I want to suggest I have been active in both the public and the private sectors during my career. I have worked with all the major unions, AFL-CIO and many of our Nation's major employers.

Now let me focus a bit more on my experience with the Postal Service. Since 1993 I have both observed and participated in postal labor relations. As director of the Federal Mediation Service my staff made me aware of a study by the General Accounting Office which was exceedingly critical of the state of labor relations in the Postal Service. Shortly thereafter Congressman John McHugh personally asked if I would intervene and try to bring the parties together, and from that we organized a series of labor-management summits that occurred on approximately a quarterly basis once we got them going, and it included the Postmaster General, his direct reports, and also the top union officers as well. I chaired a series of these summits for 4 or 5 years and continued when I left the government in 1998, and I was asked by the parties to continue to facilitate those sessions.

Now a second way in which I have been involved in postal labor relations, I served as the mediator and the interest arbitrator for the impasse that resulted from the unsuccessful collective bargaining negotiations between the National Rural Letter Carriers

and the Postal Service. Those proceedings resulted in a unanimous award being issued February 2, 2002. As a result, I would say, of this participation in these matters I have been involved in postal labor relations for the past decade, both from trying to facilitate and improve what was often a contentious relationship at that time, much improved today I would note, but also then serving as a neutral in a labor negotiations impasse.

I therefore appreciate the chance to address this Committee and share some insights I have developed as a result of these 10-odd years of experience and how this in fact relates to the recommendations, or some of the recommendations at least, of the President's Commission on Postal Reform that I understand this Committee is considering.

I want to focus on my experience as a mediator and interest neutral in the collective bargaining impasse between the Postal Service of the National Rural Letter Carriers because I think this experience gives me particular insight to share with you concerning these recommendations from the President's Commission. I am referring specifically to those recommendations called collective bargaining process improvements.

With regard to the collective bargaining and interest arbitration process, it is my personal opinion and professional judgment that the current process suffers from three basic problems. Madam Chairman, this is the heart of my testimony. It is too formal, it is too adversarial, and it takes too long. In my judgment changes to the process are needed to address these counterproductive characteristics.

First, the current process is too formal because it relies so heavily upon litigation with all of the formality of judicial proceedings—witnesses, numerous witnesses, hundreds of exhibits, thousands of pages of testimony before a court reporter, rebuttal, surrebuttal, and so forth and so on. Such formalistic procedures by their very nature tend to skew the practical in favor of the technical and often lead to time and resources being devoted to issues of forms instead of substance, and to matters of what I would consider too often marginal relevance rather than those of fundamental significance. Litigation processes are no substitute for practical, real-world decisionmaking.

Second, the current process is too adversarial because the arbitrator in this judicial capacity does not get the opportunity to meet with the parties informally and to really mediate the issues which are at the heart of the dispute. Instead of engaging in mediation where the neutral can really engage and encourage the parties to focus on the core issues at dispute, these overly adversarial proceedings are characterized by each party responding tit for tat and full litigation regalia in force, regardless of the merit or the significance at issue. The us versus them mentality is difficult to contain in a hearing room and too often spills over to impact the entire relationship. In fact I believe if you will speak with the leadership of the unions and the Postal Service they will tell you that after a difficult, tough interest arbitration that the relationship too often is damaged and harmed and it takes a good bit of time to get it back on track again.

Third, the protracted length of these specifics is well-documented and exacerbates the remaining underlying problems. As noted in the commission's report, the last three impasse proceedings took between 13 months and 17 months to finish. In fact the interest arbitration at which I was a neutral chairman, it took 14½ months from the contract expiration date to the issuance of an award. This is certainly not a definition of efficiency and it is a problem. The current process seems to encourage the parties to negotiate for 90 days in good faith, attempting to reach a conclusion to the collective bargaining negotiation, and then upon the failure to do so they start from square one in the dispute resolution process.

In reviewing the section of the Commission's report on proposed changes to the collective bargaining I was impressed with their express goal to have a process where each step builds on the progress already made and emphasizes mediation and problem solving. In other words, even when negotiations have not successfully reached a complete agreement, the impasse procedures should be designed to build on the progress made to date and to discourage the parties from trying to revert to hard-line positions previously abandoned.

Interest arbitration, if it must have happened, need not have gone far from scratch with the parties posturing on issues and advancing positions that previously were the subject of compromise. I believe that the primary recommendations of the Commission in this respect represent a considerable improvement over the current process.

The primary recommendations of the Commission that I would like to address are the inclusion of a mediation stage, essentially a lieu of fact-finding and the use of the mediator as the interest arbitrator neutral in the med-arb format. I speak to these issues with personal experience. I served as both the mediator and then the interest arbitration neutral chairman in my role with the Postal Service and the rural carriers. As such I think that I have some experience and insight to share with you. I might note that my understanding is that I was only the second person in the history of collective bargaining in the Postal Service who had served both as a mediator and the interest arbitrator, the one immediately preceding me back in the late 1970's.

In my judgment, there was great value to the mediation that preceded the interest arbitration with the Postal Service and rural carriers union because the parties engaged in very frank, very serious discussions during the mediation with me. As a result, while the mediation did not resolve the dispute, it did resolve some of the issues of the dispute and it focused the parties on the principal points of contention. In fact there were signed agreements on several issues which enabled those matters to avoid the arbitration entirely. Further, the mediation had the effect of introducing realistic expectations to both sides.

Also, the mediation better prepared me to serve as the interest arbitrator. I was more familiar with the parties, with the individuals, more knowledgeable of their issues and had a better understanding of what was most important to each. I think it would be an error to start all over again by bringing in a new neutral for interest arbitration.

My service in both roles allowed for a continuity that permitted each step in the process to build upon the previous one rather than to start anew. I note that even though there were significant changes in the contract affecting both parties as a result of that arbitration which I chaired, the interest arbitration award was a unanimous decision among all three arbitrators, myself as the neutral chairman, the Postal Service partisan arbitrator and the rural letter carriers' partisan arbitrator. We worked very hard to achieve that unanimous decision and are very proud of it.

I would suggest that based on my considerable labor relations background, and more importantly the 10 years that I have spent in postal labor relations, med-arb would be a valuable tool for resolving collective bargaining disputes in the Postal Service.

I would like to conclude, Madam Chairman, by this personal observation. I think that you and your colleagues have an unusual opportunity to strengthen and to improve an institution, the Postal Service, that is a national treasure. I know you come from a rural area. I was raised five miles down a gravel road in the mountains of eastern Kentucky in the late Carl Perkins' district, so I understand the value of the Postal Service for rural people. I hope that you and your colleagues can fashion a bipartisan—very important, a bipartisan reform that makes sense, that helps the Postal Service, its employees, its union, its management to survive and to prosper. And most importantly, to help this institution continue to serve the best interest of our Nation and our people.

I think you are taking on an awesome task and it is really in line with your national reputation of fashioning bipartisan solutions to vexing problems, that you are willing to do this, and I commend you for it, ma'am.

Chairman COLLINS. Thank you very much. Thank you for your excellent testimony. As I heard you talk about all your experience I thought that you may be the key person for us to bring in as we try to reach agreement on this legislation upon which there are going to be so many disparate views.

Mr. WELLS. You are most gracious.

Chairman COLLINS. Thank you. Professor Medoff, welcome.

**TESTIMONY OF JAMES L. MEDOFF, PH.D.,<sup>1</sup> MEYER KESTN-BAUM PROFESSOR OF LABOR AND INDUSTRY, FACULTY OF SCIENCE AND ARTS, HARVARD UNIVERSITY**

Mr. MEDOFF. Thank you very much. It was a pleasure to hear from someone who is really a neutral, given that myself in representing NALC for the past 5 years and Michael Wachter in representing the Postal Service for, I think it was the past 25. So we have both had parties and he is the neutral, who I think is very good for you to have brought here.

Now if I remember what the questions were for me to address, one was the Presidential Commission's recommendations, and the second was the issue of postal pay comparability. Now I have four main points to say about both of these.

First, I am pleased that the Commission recognized the value of collective bargaining and recommended its retention. Personally, I

<sup>1</sup> The prepared statement of Mr. Medoff appears in the Appendix on page 148.



am a very strong supporter of collective bargaining and, for whatever it is worth, I would also recommend its retention.

Second, urge the Committee to be very cautious about making radical changes in the existing collective bargaining process unless both labor and management support them. So consistent with the remarks that came before me, you really do not want to change anything too dramatically in this area unless both labor and management agree to those changes, because it is not going to work if they do not.

My third point, which to my left here will be criticized I am sure, but I do not believe that there is a postal pay premium. I should say that it is also the case that Mr. Fleischli does not seem to really believe there is a premium either. So I am going to argue later on that if you measure the wage differential between postal pay workers, in particular letter carriers, and comparable workers in the private sector, which I think the law says is what we should be doing, you are going to find out that the letter carriers are paid, if anything they are underpaid. So there is not a premium. There is an underpayment.

I tried to tell you who I was working for in the very beginning. I think now you know for sure, but the data do support that position.

Then fourth, we want to keep regulators out of the collective bargaining process. Pay comparability is best left to the parties, because the parties will work out really what jobs are comparable. That is not something that really anyone can just dictate from up here, what is comparable. You have seen, women have seen the whole problem with the issue of comparable work. Who is going to dictate what jobs are exactly comparable? It is very difficult. So I think people like me would say, why don't you just enforce the hell out of Title VII of the Civil Rights Act, then the whole issue of comparable pay will not be an issue?

So I am saying, coming up with comparable jobs, comparable female versus comparable male jobs, for example, it is a very difficult thing to do. So people who write laws, in fact the people who passed the civil rights law passed this thing called Title VII because it would be much easier to say that no woman should be denied a job because she is a woman. No woman should be paid less than a man because she is a woman.

Any questions on that at this point?

Chairman COLLINS. We will hear all of the testimony, then I will do some questions. Thanks.

Mr. MEDOFF. Collective bargaining. To have unions and collective bargaining are good for society in my opinion. Unions provide voice. It is also my opinion they provide voice in two ways. One, they provide this thing called a grievance procedure, which on a day-to-day basis lots of workers complain about being mistreated in the workplace. So that is a form of voice. And every 3 years or so they have this collective bargaining process which is another way that voice will be provided.

Now my feeling is that voice is very good. Now the main thing that voice does is it reduces the amount of attrition, the amount of quitting, the amount of leaving your job. If you do not like your job, you do not have to tell your boss, what is the expression, to

shove it. You just can stay on the job and you can file a grievance, you can go to collective bargaining, and everything you have to say about the job will be said without your having to leave it. So ultimately, having a union structure in place reduces the amount of attrition, the amount of quitting of jobs by a whole lot.

And the main reason why I argue that unions increase productivity is that attrition is very expensive in terms of productivity. So we estimated a direct route between quits and attrition and productivity. We see by lowering the amount of attrition, unions increase the amount of productivity. Some of you will say, what, is he crazy? Has he not heard of feather-bedding? I go, yeah, I have heard of feather-bedding.

But I imagine there are few people in this room who have been to places where they have orchestras recently. Now let me ask you, how often has anybody seen a standby orchestra? Or how many of you have been recently on diesel trains where you have a fireman? So I think the whole thing of feather-bedding is really way overblown as an important issue.

So ultimately that is an issue that has to be studied. There are a lot of things that unions do, some of which have been just talked about, that ultimately increase productivity. One is by reducing attrition. One is by providing voice to management where they cause productivity to be higher, not lower.

Now let me turn here to the next page. I have down here, be careful about having a rigid timetable, because in the same way it does not work, and people who are involved in collective bargaining know that it does not work to come up with some solution which forces everybody to wear a size seven shoe. I have a certain sense in reading these recommendations, in terms of the last best offers and things like that, that really we are forcing all of the people, all of the parties involved into wearing size seven shoes, and that does not work. I think people have to state really what would be a comfortable shoe size for them to wear.

Let me just move on. Now the last thing I said that I would talk about was pay comparability. When we talk about pay comparability, in labor economics there is a big issue of what are you talking about, jobs or people? Because when you talk about comparability you could be talking about either comparable jobs or comparable workers.

I think I am talking about both. To me, what I think the law says and what a comparable job is for our discussion is really the type of job that is similar. If you went to a company they would say, this is a similar job and in most cases they would be looking at another company that had this job and they would come up with a list of jobs that were "comparable." Now they would not do anything like what my friend Dr. Wachter does here like run a regression where he defines comparable jobs in terms of jobs which have people who have the same human capital, who have the same experience and education and therefore are comparable. Now that just would not be done in business. So I cannot believe that we should be asked here to adopt a definition of comparability which is not one that would be adopted anywhere else in our society.

Am I within my 10 minutes?

Chairman COLLINS. You are a little over your 10 minutes but we very much appreciate it.

Mr. MEDOFF. I apologize for that.

Chairman COLLINS. No, that was absolutely fine and thank you. Dr. Wachter.

**TESTIMONY OF MICHAEL L. WACHTER, PH.D.,<sup>1</sup> CO-DIRECTOR, INSTITUTE OF LAW AND ECONOMICS, AND THE WILLIAM B. JOHNSON PROFESSOR OF LAW AND ECONOMICS, UNIVERSITY OF PENNSYLVANIA LAW SCHOOL**

Mr. WACHTER. Thank you, Madam Chairman, and Members of the Committee. My name is Michael Wachter and I am currently employed by the University of Pennsylvania as the William B. Johnson Professor of Law and Economics. I served as the university's deputy provost from 1995 through 1997 and was the university's interim provost in the year 1998. I have been employed at the University of Pennsylvania since 1969.

I have published extensively in the areas of labor economics, labor law, corporate law and finance. Virtually all the work that I have done for the Postal Service over the years has been published in academic journals and books. My consulting work and testimony on behalf of the Postal Service has focused on the issues of postal wages and benefits and how they compare to private sector wages and benefits.

I first consulted for the Postal Service in 1981. At that time it was not tied to an interest arbitration but simply assisting them in wage-setting and their own approach to wage-setting and collective bargaining. Since that time I have testified in numerous interest arbitration proceedings. My most recent testimony was before the Goldberg interest arbitration panel in 2001 to resolve the dispute between the Postal Service and the APWU. On April 29, 2003 I also appeared before the President's Commission on the U.S. Postal Service.

The starting point for my analysis of postal wages and benefits is and always has been the Postal Reorganization Act, which states that the U.S. Postal Service shall "maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy." The Postal Service is unusual compared to many regulated firms since it is so highly labor-intensive. Currently, nearly 80 percent of its costs are for compensation, which makes labor cost issues critical to the financial health of the Postal Service.

The President's Commission has recommended that the Postal Service's pension and post-retirement health care plans should be subject to collective bargaining. Based on my research on postal labor issues dating back 25 years, I believe the Commission's recommendation on this count is both appropriate and necessary. My conclusion is based on four fundamental points.

First, my work on postal comparability shows that there is a sizable postal compensation premium with respect to the private sector. This violates the basic tenets of the Postal Reorganization Act

<sup>1</sup> The prepared statement of Mr. Wachter appears in the Appendix on page 157.

and renders the Postal Service vulnerable to competitive product market pressures.

Second, the finding of a postal compensation premium has been supported by postal arbitrators who have addressed the issue since 1984. As a consequence of their findings, the Postal Service and its unions have operated in an environment of moderate restraint with respect to wages since 1984.

Third, while there has been some significant moderate restraint in postal wage growth, there has been no such moderation with respect to the growth in postal benefits.

Finally, in today's increasingly competitive environment, the Postal Service needs both compensation restraint and flexibility to meet its mandate of providing universal mail service. Let me add that even if there were not a premium, the need for flexibility would stand simply because of the competitive environment in which the Postal Service operates.

Indeed, the Postal Service finds itself today operating in increasingly competitive product markets across the board. There has been a fundamental shift in postal volume growth that reflects not only economic trends but also technological innovations such as the Internet. Technology poses a threat of a significant diversion of mail from the Postal Service. Total postal volume peaked in 2000 at nearly 2,008 billion pieces. Since that time total mail volume declined in each of the past 3 years while the economy has been growing, sometimes moderately, more recently quite strongly.

Particularly troubling to the Postal Service is the trend in First-Class Mail since this helps pay for the expanding delivery network. In the first 30 years following postal reorganization First-Class Mail grew rapidly and appeared to be immune from competition and pricing. This is no longer the case. First-class mail has now declined for 2 years. Moreover, except for standard mail most Postal Service classes of mail will experience negligible volume growth or even volume declines in the coming years.

The competitive pressures put enormous pressure on the Postal Service to bring its wages and benefits into conformity with private sector comparability.

As I mentioned, I have testified in many postal interest arbitrations, most recently before the Goldberg arbitration panel involving the Postal Service and the APWU. I also have published numerous academic articles on this topic with my colleagues Dr. Jim Gillula, who is behind me here today, and Barry Hirsch. We have concluded that a substantial wage and benefits premium exists. I have also provided for the record a copy of my report to the APWU interest arbitration panel.<sup>1</sup> In this report we found a wage premium of 21 percent and a total compensation premium of 34 percent.

My compensation premium findings have been corroborated by internal Postal Service data that reveal that new postal hires are paid much more than they are paid in the private sector, that at any one time there are literally hundreds of thousands of individuals seeking to become postal employees and that very few existing postal employees voluntarily leave their jobs.

<sup>1</sup>The report entitled "Wage and Benefit Comparability of U.S. Postal Service Clerks to the Private Sector," by Michael L. Wachter, Barry T. Hirsch and James W. Gillula, October 2001, is retained in the files of the Committee.

Since 1984, postal arbitration panels have consistently, and I say consistently without exception, found the existence of a premium when they have addressed that issue, and the need for moderate restraint as a way of decreasing the premium. I have provided a listing of quotations on this point in my written testimony beginning with Clark Kerr's conclusion in 1984 that discrepancies in comparability existed and that an extended period of moderate restraint would be needed to close the gap.

In the most recent arbitration, the 2001 postal APWU arbitration, Arbitrator Steven Goldberg stated, "in concluding that there exists a Postal Service wage premium, I join a long list of arbitrators in prior USPS interest arbitrations who have reached the same conclusion."

As a way of tracking the principle of moderate restraint instituted by Arbitrator Kerr, my colleagues and I have tracked the growth rates for postal wages and compensation compared to private sector growth rates. The results of these tracking analyses are particularly relevant considering the Commission's recommendation that retirement and retiree health benefits should be subject to collective bargaining.

During the 20 years from 1984 through the end of 2003 postal wages operating in an environment of moderate restraint, have grown at an average annual rate of 3 percent. This compares to the private sector annual growth rate of 3.5 percent. Thus, there has been a modest but notable annual closing of the wage gap by one-half percent per year over a prolonged period of time.

Unfortunately, although there has been moderation of postal wage growth, there has been no such moderation on the benefit side. As a consequence, over these past 20 years postal compensation cost growth has actually slightly exceeded private sector compensation growth. The effects of moderate restraint on the wage side introduced by Arbitrator Kerr and agreed to by a whole list of postal arbitrators has been entirely erased by the growth in postal benefit costs.

Some postal benefits are subject to collective bargaining. However, over \$7 billion of retirement and retiree health benefits expenses are outside the collective bargaining process. The President's Commission would allow the parties to negotiate over these benefits which have proved critical to the problems of bringing the postal premium under control.

In summary, in operating in increasingly competitive markets the Postal Service must ensure that its wages and benefits meet the comparability mandate as provided for under the Postal Reorganization Act. This requires that the Postal Service and its unions be able to address all labor cost components, including benefits, in future negotiations.

My experience in observing moderate postal wage growth during the past 20 years shows me that the collective bargaining process can make progress in allowing the Postal Service to conform to the comparability standard. Consequently, I support the Commission's recommendation that retirement and health benefits for retirees should be part of the collective bargaining process. In principle, all postal benefits should be part of the collective bargaining process and open to resolution through interest arbitration if necessary.

This concludes my testimony. Thank you for providing me with the opportunity to testify before the Committee.

Chairman COLLINS. Thank you very much, Professor, for your excellent testimony as well. I want to apologize to the experts on this panel. I have just been notified that Senator Carper and I have a vote underway on the Senate floor. It is a long ways from where we are to the Senate floor and the vote is underway, so I am going to just ask one very quick question of Mr. Wells rather than getting into a lot of the pay comparability issues. But what I would like to do is to submit some questions to all three of you for the record and continue this dialogue over the next few months. But I very much appreciate all of you being here today.

Mr. Wells, the postal unions have generally opposed pay-for-performance systems for employees that are under collective bargaining. I wonder, given your very broad experience whether you have any examples of large companies that have successfully implemented pay-for-performance systems with a unionized workforce.

Mr. WELLS. It is not easy to do, Madam Chairman, but yes in fact there are a number of models out there. There is a gentleman by the name of Joe Scanlon who was a steelworker and then went on to become a professor at MIT and he, working with the steelworkers, instituted a number of pay-for-performance processes in the steel industry in the 1940's and 1950's. Kaiser Steel, likewise in the 1960s instituted something called the Kaiser long-term sharing plan in which productivity improvements were translated into pay-for-performance. That was done with the steelworkers.

More recently, I mentioned Kaiser Permanente and the AFL-CIO unions. There are seven or eight unions and like 60,000 employees involved that I was involved in helping shape a partnership. This Kaiser is the huge HMO. They have a performance sharing plan and their collective bargaining agreement is part of their partnership. And the Saturn plant of GM, also which has UAW represented, I know they spent at least 10 years with pay-for-performance. I do not know about the current contract.

So there are a number of models out there. Professor Tom Coken at MIT, a very distinguished industrial relations professor, has done a paper recently on this and that may be something that the staff may want to take a look at.

Chairman COLLINS. Thank you.

Mr. WELLS. Could I say one thing though, Madam Chairman?

Chairman COLLINS. Yes.

Mr. WELLS. I was supportive of a number of these recommendations, and I am. I do not support all of them. I want to make sure that I am on the record though, I have real questions about the notion of having a three-member panel of neutrals. Having partisan arbitrators helps sharpen the debate, it educates the neutral chairman about what is important about the issues. They keep you from making a serious mistake, and I think the current system really is one that ought to be looked at very hard before you replace it in terms of the composition of the arbitration panel.

Chairman COLLINS. You just answered one of the unasked questions that I had been planning to ask, so I am very glad that you

did. It does seem like the current system encourages more buy-in for the ultimate decision.

Senator Carper, if you could very quickly ask a question so we do not miss our vote.

Senator CARPER. You bet. Again, thank you for your really excellent testimony, most helpful testimony. Dr. Wachter was suggesting that, just as the Postal Service and the union management bargain for wages, they ought to also bargain for benefits.

Let me just ask the other witnesses, if you will, to address that assertion and tell me to what extent you agree or disagree, and maybe if you do not agree, why.

Mr. WELLS. In terms of bargaining for benefits?

Senator CARPER. Yes.

Mr. WELLS. I do an awful lot of work in the private sector. That is really my background, and everything is on the table in the private sector including benefits. On the other hand, I think the answer to that question, Senator Carper, is what kind of a Postal Service do you want? Do you want it to be a Postal Service that can compete with FedEx and UPS and really be a private sector model? Or do you want a Postal Service that is going to provide universal service, that is going to be more closely akin to a Federal agency?

If you want it to be a Postal Service that is like a UPS or a FedEx or the private sector, then you need to put things on the table that are not there. On the other hand, if you are committed to universal service and a Postal Service such as we have grown use to, then I think you need to protect it.

So the answer is, what kind of a Postal Service? Once you decide what your vision of the future of the Postal Service is, then you can decide about what you put on the table and what you do not put on the table.

Senator CARPER. Thanks.

Dr. Medoff, your comments in response to Dr. Wachter's suggestion that not only wages but also benefits be collectively bargained?

Mr. MEDOFF. That makes sense to me. I think it should be total compensation that is collectively bargained over, not just wages but wages plus fringe benefits. So I think it is the whole compensation package that should be bargained for by labor and management.<sup>1</sup>

Senator CARPER. Good. Thank you. Was that short enough?

Chairman COLLINS. That was very good. Thank you.

Senator CARPER. Better than usual.

Chairman COLLINS. Again, my apologies to our expert witnesses. We very much appreciate your testimony as we tackle these very difficult issues.

The hearing record will remain open for 14 days for additional materials. This hearing is now adjourned. I thank all of our witnesses today. Thank you.

[Whereupon, at 4:18 p.m., the Committee was adjourned.]

<sup>1</sup> Letter from Mr. Medoff, dated February 17, 2004, with a response to the question from Senator Carper above appears in the Appendix on page 00.





## **PRESERVING A STRONG UNITED STATES POSTAL SERVICE: WORKFORCE ISSUES**

**TUESDAY, FEBRUARY 24, 2004**

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Stevens, Akaka, and Carper.

### **OPENING STATEMENT OF CHAIRMAN COLLINS**

Chairman COLLINS. The Committee will come to order.

Good morning. Today marks the fourth in a series of hearings the Committee on Governmental Affairs is holding to review the reforms recommended by the Presidential Commission on the Postal Service.

Under the effective leadership of Co-Chairmen Harry Pierce and James Johnson the Commission put together a comprehensive report on an extremely complex issue identifying the operational, structural, and financial challenges facing the U.S. Postal Service. The Commission's recommendations are designed to help this 225-year-old service remain viable over the long-term.

So much depends upon the Postal Service's continued viability. The Postal Service itself has more than 735,000 career employees. Less well known is the fact that it is also the linchpin of a \$900 billion mailing industry that employs 9 million Americans in fields as diverse as direct mailing, printing, catalog production, and paper manufacturing. The health of the Postal Service is essential to thousands of companies and the millions that they employ.

One of the greatest challenges for the Postal Service is the decrease in mail volume as business communications, bills and payments move more and more to the Internet. The Postal Service has faced declining volume of First-Class Mail for the past 4 years. This is highly significant given the fact that First-Class Mail accounts for 48 percent of total mail volume and the revenue it generates pays for more than two-thirds of the Postal Service's institutional costs.

At our first hearing last September the Committee heard from the Commission Co-Chairman Jim Johnson. His testimony provided us with the rationale behind the Commission's recommendations. Commissioner Johnson also made the very important point that the Postal Service's short-term fiscal health is illusory and

that Congress must not ignore the fundamental reality that the Postal Service is an institution in serious jeopardy.

This Committee is very familiar with the Postal Service's short and long-term financial health having reported out the pension bill last year that forestalled the financial crisis that awaits the service if we do not act and enact further reforms.

The Presidential Postal Commission presented its assessment of this fiscal crisis in frank terms concluding, "that an incremental approach to Postal Service reform will yield too little too late given the enterprise's bleak fiscal outlook, the depth of the current debt in unfunded obligations, the downward trend of First-Class Mail volumes, and the limited potential of its legacy postal network that was built for a bygone era." That is a very strong statement and an assessment that challenges both the Postal Service and Congress to embrace far-reaching, comprehensive reform.

At the Committee's second hearing last Fall we heard from the Postmaster General Jack Potter and the Comptroller General David Walker. The Postmaster General described the transformation efforts already underway at the Postal Service, many of which are consistent with the Commission's recommendations. In his testimony Mr. Walker of the General Accounting Office shared the Commission's concerns about the Postal Service's \$92 billion in unfunded liabilities and other obligations. The Comptroller General pointed to the need for fundamental reforms to minimize the risk of a significant taxpayer bailout or dramatic postal rate increases. I would note that since April 2001 the Postal Service has been included on the GAO's high-risk list.

Most recently the Committee heard from representatives of the postmaster and supervisor associations along with the former director of the Federal Mediation and Conciliation Service plus two experts on the issue of postal pay comparability. The issues of pay-for-performance and potential changes to the bargaining process were discussed at length.

Today we will again focus on the various recommendations affecting the Postal Service's workforce comprised of more than 700,000 dedicated letter carriers, clerks, mail handlers, postmasters and others. The Committee will have the opportunity to more fully explore the workforce-related recommendations of the Commission which include some of its more controversial proposals. Among them are recommendations to reform the collective bargaining process, to give management and employee unions the authority to negotiate not only wages but also all benefits, to establish a performance-based pay system for all employees, and to authorize a new postal regulatory board to develop a mechanism for ensuring that the total compensation for postal employees is comparable to the private sector.

The Postal Service faces the difficult task of trying to right-size the workforce to meet the decline in mail volume, technological competition, and other operational challenges. With some 47 percent of the current workforce eligible for retirement by the year 2010 right-sizing does not, however, have to mean widespread layoffs. Indeed, it should not. With careful management much can be done to minimize any negative impact on employees and to create a more positive working environment.

As a Senator representing a large rural State whose citizens depend on the Postal Service I appreciate the Presidential Commission's strong endorsement of the basic features of universal service: Affordable rates, frequent delivery, and convenient community access to retail postal services. It is important to me that my constituents living on or near our northern or western borders, or on our islands, or in our many small rural communities have the same access to postal services as the people of our cities. If the Postal Service were no longer to provide universal service and deliver mail to every customer, the affordable communication link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to rural Americans at the rates that the Postal Service charges.

The preservation of universal service is critical to reforming the Postal Service. That and many other issues must be examined in depth if we are to save and strengthen this vital service upon which so many Americans rely for communication and for their jobs. The Postal Service has reached a critical juncture. It is time for a thorough evaluation of its operations and requirements. It is also time for legislative reforms.

Senator Carper and I have committed to working together with Senators Stevens, Akaka, Lieberman, Fitzgerald, and many other Members of this Committee who care deeply about the future of the Postal Service. We want to draft a bipartisan postal reform bill.

Now given the history of previous attempts at legislative reforms I know that this will not be an easy task, but it is essential this year that we seize the opportunity provided by the Commission's excellent work. Successful reform will hinge on the cooperation and the support of the Postal Service's workforce. But reform is necessary if we are going to preserve and strengthen the Postal Service.

I welcome our witnesses today and look forward to hearing their insights and views on the recommendations of the Presidential Commission on the Postal Service.

Now I would like to recognize Senator Akaka, who had perfect timing this morning. He did not have to hear my speech but he does get to present his.

#### **OPENING STATEMENT OF SENATOR AKAKA**

Senator AKAKA. Thank you very much, Madam Chairman. I thank you for your leadership here and I want you to know that your opening remarks affirm my feelings too. It is important that we deal with this.

I am pleased to join you this morning as we continue our review of the recommendations made by the Commission on the U.S. Postal Service, and to reaffirm I am here to join you in our commitment to all who rely on the U.S. Mail.

I look forward to hearing from today's witnesses who are uniquely qualified to discuss the Commission's workforce recommendations. We are indeed fortunate to have as our first panelist Dan Blair, the Deputy Director of the Office of Personnel Management who for many years served as a senior congressional counsel on postal and civil service matters. I also look forward to hearing from

our second panel, the elected presidents of the four largest postal unions. Together you represent nearly a half-million postal employees and your input is central to any successful modernization of the Postal Service.

The achievements of the Postal Service in recent years, highlighted by ever-increasing record levels of productivity and an improving financial outlook, are shared by postal employees. In fiscal year 2003, the Postal Service's net income reached \$3.92 billion, approximately \$3 billion of that figure can be attributed to our Chairman's CSRS legislation which I was proud to co-sponsor.

This positive financial turnaround comes at a time when the Postal Service is rationalizing its workforce. Since 1999, the workforce was downsized by 88,000 employees and yet customer satisfaction and on-time First-Class Mail delivery are at all-time highs. In concert with this good news is a stable labor-management climate that has resulted in a series of voluntarily-negotiated labor contracts.

I attribute this favorable labor environment to the leadership of our second panel, to the Postmaster General, and to the flexibility built into the existing collective bargaining law governing those who provide this essential public service. That is why I am concerned that certain workforce recommendations suggested by the Postal Commission could adversely impact today's sound labor environment and undermine existing conditions.

The Commission would implement a pay-for-performance system for all employees, impose collective bargaining procedures with rigid timelines and no flexibility to waive those timelines, empower a new postal regulatory board with determining total compensation and defining universal service, and require negotiations over any benefits in addition to wages.

This Committee, more than any other Senate committee, understands the impact that bargaining over benefits could have on the stability and financial integrity of the government's two pension plans and its employee health insurance program. As I noted, Madam Chairman, at our hearing 2 weeks ago, postal workers make up one-third of the Federal workforce and I urge caution when considering splitting postal employees from these Federal programs without knowing the effect on active and future employees.

Moreover, subjecting benefits to collective bargaining could have a serious effect on retirees. We should do no harm to retired postal workers who have already earned their benefits and planned their retirements under the Federal pension and health plans. Rationalizing Postal Service requires leadership from the top down and I believe that leadership is now in place.

I look forward to working in a bipartisan manner on a process that is transparent and accountable to the postal workforce and, of course, the public. I thank our distinguished panelists for being with us and I again want to thank Madam Chairman Collins very much for her able and good leadership. Thank you very much.

Chairman COLLINS. Thank you very much, Senator. It has been a pleasure to work with you, not only on postal issues but many others as well.

I would now like to welcome our first witness who is no stranger to this Committee as Senator Akaka points out. He is Dan Blair, who is the Deputy Director of the Office of Personnel Management. Mr. Blair has extensive experience in the civil service sector having served for almost 17 years on the staffs of both this Committee and the House Government Reform and Oversight Committee. We are very pleased to have you back. I know that the Director of OPM, Kay Coles James relies very heavily on you and we appreciate your being here today. You may proceed with your statement.

**TESTIMONY OF DAN G. BLAIR,<sup>1</sup> DEPUTY DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY NANCY KICHAK, CHIEF ACTUARY, OFFICE OF PERSONNEL MANAGEMENT**

Mr. BLAIR. Thank you, Madam Chairman, Senator Akaka. I appreciate that warm welcome. Thank you for inviting me to testify here this morning. I have a longer statement that I would ask that you include for the record.

Chairman COLLINS. Without objection.

Mr. BLAIR. But I am happy to summarize.

Nancy Kichak, to my right, is OPM's chief actuary and she accompanies me here today. Should you have any technical questions, with your permission, I may ask Ms. Kichak to assist in answering your or the Committee Member's questions.

Chairman COLLINS. That would be fine.

Mr. BLAIR. Thank you.

First, I want to commend you and this Committee for the thoughtful, studied way in which you approach the complex issues affecting postal reform. A well-managed, fiscally healthy Postal Service is essential for our national and economic well-being. You said that in both your statements and I am glad that we find that common ground because it is extremely important.

The President's Commission on Postal Reform made many good recommendations on which a postal reform measure could move forward. Postmaster General Jack Potter has also done a commendable job by working hard to move his organization forward as well. Further, the President has endorsed the need for modernizing postal operations and laid out five guiding principles for postal reform last year, so there appears to be the critical mass necessary to propel legislative reform and anyone interested in the health of our economy and our Nation wishes this Committee success as you move forward in enacting needed reforms.

In your invitation to testify you asked for our comments in three specific areas, pay-for-performance, negotiability of retirement and health benefits, and the proper assessment of pension liabilities.

First, thanks to this Committee's efforts we have made progress on introducing pay-for-performance systems into the Federal Government. As you know, our pay systems did little to offer managers the ability to use their most strategic management tool, pay, in ways to incentivize and recognize outstanding performance. Hopefully we are taking steps to change this.

<sup>1</sup> The prepared statement of Mr. Blair appears in the Appendix on page 179.

Your efforts to enact needed pay reforms for the Senior Executive Service and authorize creation of the Human Capital Performance Fund are most appreciated. We are in the process of implementing the new system for the SES and have issued guidance over the past few months to the agencies. We are also working to draft regulations to implement the new system as well. This year's budget also asked Congress to fund the Human Capital Performance Fund in the amount of \$300 million. So thanks to your good work and good efforts of this Committee, Madam Chairman, we are making much-needed progress.

Second, you asked us about the potential impact on the Federal systems in making the Postal Service's pension and post-retirement health benefits subject to collective bargaining. We understand this is based on the Commission's recommendations that reflected its efforts to give the Postal Service additional flexibility when it came to collective bargaining. You asked us to prepare a detailed report on the impact of this recommendation on the retirement and Federal health benefits programs, and we are currently preparing that report. So I am not prepared to go into detail or present conclusions at this point. However, I would bring to the Committee's attention a few of the issues raised in considering such a proposal.

First, keep in mind that retirement funding is based upon predictability and continuity. Hence, bargaining over retirement benefits could be adopted to the extent it does not destabilize retirement funding. While our pending report will address in detail our thoughts on this, I would note that the postal benefit structure is currently fully integrated with the non-Postal Service structure.

Further, I would bring to the Committee's attention that there has never been a major group severed from either one of the two primary Federal retirement systems.

Regarding the recommendation to make eligibility and retiree contributions under the post-retirement component of the Federal Employees Health Benefits Program negotiable we would note that currently FEHBP benefits are offered to all enrollees regardless of work or retirement status. We do not distinguish what benefits are offered to active employees, retirees or by specific agency employer. Should postal retiree benefits be subject to bargaining we would want to ensure that the mechanism employed would not lead to unintended consequences, such as increasing adverse selection and thereby increasing cost and complicating the administration of the FEHBP.

Also, many of the current carriers in the FEHBP are postal related, such as the plans offered by the Mail Handlers, the Letter Carriers, the Postal Workers Union, the Rural Letter Carriers, and the Postmasters. The impact on the FEHBP could be substantial should the Postal Service cover its retirees or retirees under a separate health insurance program and should these plans then drop out of the FEHBP.

I would also point out that experience has shown that when agencies have offered their employees alternative health insurance plans, such as the FIRREA agencies did in the mid-1980's and 1990's, they sought legislative relief through this Committee to bring their retirees back into the FEHBP due to increasing costs.

Of great interest to the administration is the Commission's recommendation to shift responsibility for military service credit in the Civil Service Retirement System from the Postal Service to the taxpayers. Last year this Committee did the right thing when it promptly considered and moved legislation addressing Postal Service overfunding of its pension obligations. That legislation placed the Postal Service on sound actuarial footing, including correctly assessing the Postal Service with the full cost of covering its CSRS employees, including those with military service. The administration stands firm in opposing any efforts to shift these costs to the taxpayer.

Some have said there is no direct relationship between an employee's prior military service and the Postal Service operations. We wholeheartedly disagree. Granting credit for military service enables the Postal Service to better recruit and retain veterans as part of its team. Providing these benefits gives the Postal Service an advantage in hiring employees of recognized professionalism, level of experience, dedication to service, and commitment to excellence. Such military service does indeed provide a direct benefit to the operations of the Postal Service.

In addition, such a proposal runs counter to the long-standing principle which has stood as the cornerstone of the 1970 Postal Reorganization Act that the Postal Service should cover all the costs of its operations. The President set the administration's policy when he established as one of the guiding principles for postal reform that the legislation ensure that the Postal Service is self-funding.

Last year's legislation rightly granted the Postal Service needed pension funding relief; \$78 billion in pension relief to be precise. Under this methodology the taxpayers still fund the cost of providing military service credit for postal employees under CSRS in the amount of \$21 billion. Shifting further liabilities that essentially fund postal operations to the taxpayer would be wrong and the administration is on record as opposing it.

There is common ground on which this Committee can proceed in working towards a postal reform measure. However, there are other areas about which the administration has voiced its objections and I hope that I have provided you with a clear understanding of where we stand on these issues.

This concludes my oral presentation and, Madam Chairman, I am happy to answer your or Senator Akaka's or any Member's questions at this point. Thank you very much.

Chairman COLLINS. Thank you for your statement. I know that OPM in response to a letter that Senator Carper and I sent is still evaluating what the impact would be of potentially taking the Postal Service out of the Federal retirement system and the Federal Employees Health Benefit Plan. But do you or Ms. Kichak have any preliminary judgments that you could share with the Committee on this issue?

My concern is that we are not talking about a small number of people. We are talking about taking a huge number of employees and retirees out of the Federal plans. I wonder if you could elaborate on what the impact would be on the stability and the financial health of both the retirement and the employee health benefits

plan if you were to separate out the Postal Service employees and retirees.

Mr. BLAIR. I think you hit the nail on the head, that you are talking about potentially taking a huge portion of both retirement and the FEHBP populations out from under these systems. It is an extraordinarily complex matter, but there are some aspects of the benefits which could be amenable to negotiation. Changing one part, however, can have profound effects on the rest and to achieve full negotiability, especially in the pension area, and might require the Postal Service to sever its association with both the retirement plans. We will go into detail in our report but it is an extraordinarily complex subject. The keys to pension funding are predictability and stability. And if you take that away because benefits are being negotiated you undercut the foundation of what our plans have been built on.

With regard to the health benefits issue, again, the Postal Service has flexibility in that area to negotiate the premium costs. Let me correct myself, to negotiate the employer's share of the premium cost, and it has done so. At this point in time they pay approximately 84 percent of the premium costs as opposed to approximately 72 percent for the rest of the Federal Government. So it does pay more than the rest of the Federal Government where it has exercised that flexibility. In the life insurance area it currently plays 100 percent of the life insurance costs. So again, where it has flexibility it has shown that it has actually paid more and not less of the total share.

That said, changing the composition of the enrollment group has a direct impact on cost. Cleaving off approximately one-third of the enrollees in the FEHBP population would not only reduce the risk pool that we have, but would perhaps have unintended consequences such as leading to adverse selection.

In addition, as I said earlier, five of the plans are postal related, and we have had trouble keeping plans in the system recently. One of the underpinnings of the FEHBP has been competition among plans. We not only want to keep plans in, we want to draw more plans to it. So those are concerns that we have raised.

Now I do want to underscore, however, that there may be aspects of this that may be amenable to the collective bargaining process and we will point those out in further detail in the report. But these are some of the concerns that we have raised and I think that it is important for the Committee to understand them.

Chairman COLLINS. Do the Federal employees unions also negotiate the employee-employer split when it comes to health insurance premiums?

Mr. BLAIR. No, they do not. That is set by statute.

Chairman COLLINS. So that is a different treatment then.

The second issue I want to explore with you is the difficult issue of what is the appropriate entity to bear the cost of the military service of postal employees. I am not inclined to agree with the administration's position that the Postal Service should continue to bear this cost. It is my understanding that the Postal Service bears the cost of the old Civil Service Retirement System, the pre-1984 system, but that other agencies do not bear that cost. Is that cor-



rect? Is the Postal Service treated differently from Federal agencies when it comes to the old Civil Service Retirement System?

Mr. BLAIR. Generally speaking that is the case. What happened last year when we caught the overfunding problem is that we set the Postal Service's CSRS funding on sound actuarial footing by placing it in the same category or treating it in the same way that we fund the Federal Employee Retirement System. That means it is fully funded. It does not have any unfunded liabilities.

You are correct in pointing out that there are just a handful of other Federal entities out there that may be paying the full cost of their retirement system. The ones that come to mind are the Metropolitan Washington Airports Authority, and the United States Enrichment Corporation, which was a part of the Department of Energy. But nothing on the scale or rank or size of the Postal Service.

But I would urge you to consider what would happen if you would shift these responsibilities back to the Treasury. Funding of a retirement system is really not done on an a la carte basis by taking and picking which portions should be borne by the employer. Rather everything should be borne by the employer. All those costs should be borne by the entity providing those benefits. The Postal Service has the benefit of offering a retirement system which has great recruitment and retention value. Giving veterans that military service credit is an incentive for veterans to come into the Postal Service. If you are going to provide Federal retirement you should be fully funding those costs.

We recognize that other Federal agencies and other Federal entities out there have not been mandated by Congress to fully fund their share of the CSRS system. We do not think that is right. The President's Managerial Flexibility Act would have had all agencies fully funding the CSRS system in the same as they would for FERS. But giving a break to other agencies does not mean we should give the break to the Postal Service. We did the right thing last year by placing it on sound actuarial footing and I would urge you not to backslide and go in the opposite direction.

Ms. Kichak, did you want to add anything to that?

Ms. KICHAK. Only that the fact that the Postal Service being treated differently applies to a broad range of items. Congress mandated in 1974 that they would start to fund their Civil Service Retirement System through postal rates. So they have always been treated differently and this is just one more piece of making them cover these costs through stamp prices.

Chairman COLLINS. You could make a case that since the pension costs for military service have nothing to do with postal operations, you could almost make the case that whether you are talking about the FERS system or the CSRS system that postal ratepayers should not be bearing that cost. But I am not trying to change it for FERS. I am trying to have equity in the treatment of the Postal Service vis-a-vis other Federal agencies in how those costs are treated for the pre-1984 employees who are veterans. It has a huge economic impact on the Postal Service, as you know, which is obviously of concern to the administration as well because whoever bears that cost is going to be presented with a pretty hefty bill.

Senator Akaka.

Senator AKAKA. Thank you very much, Madam Chairman.

Mr. Blair, as you know the Department of Homeland Security and Department of Defense have been authorized to establish new human resource systems which include performance-based pay. The Postal Service also recommends that the Postal Service implement a pay-for-performance system for all employees rather than just its managers. However, many experts agree that there is, at a minimum, a 5-year learning curve when creating a new personnel system. There are also substantial costs associated with this as well.

My question to you is, what would be gained if the Postal Service extended pay-for-performance to all its employees? And do you believe that the adoption of a pay-for-performance system should be part of collective bargaining agreements?

Mr. BLAIR. In answer to your first question, the administration is on record as generally supporting pay-for-performance systems. We think that pay-for-performance properly rewards people by properly recognizing outstanding performance, and it is a strategic management tool.

In answer to your second question, we have limited experience in the rest of the Federal Government, the non-postal side, in dealing with collective bargaining over pay. So this is almost an area of first impression. Not totally first impression, but it is a newer area for us. So we would really be starting from scratch in looking at how something like that would be done.

Generally speaking, to make a performance-based system successful the agency would need to establish the expectations up front, deal with demonstrable results, and make sure that the agency's strategic plan and annual performance plans are linked as well. But it is a difficult process in applying it across the board. In the rest of the Federal Government we are implementing it for the Senior Executive Service as we stand right now. We have the new Human Capital Performance Fund.

But we are changing the culture in government. No longer do we want to see most of the money being siphoned off for large across-the-board pay increases. Rather, we would prefer to see the money available to reward outstanding performers. I think that is a general good government principle and I think that those general good government principles could also be applied in the Postal Service, recognizing that they have a different environment in which they operate.

Senator AKAKA. Thank you. I am also concerned, like the Chairman, of the cost of military service. You mentioned OPM's position that the Postal Service should fund the cost of military service even though other Federal agencies do not have this obligation. Do you know if other government entities that generate revenue like the SEC and other FIRREA agencies fund the cost of their workers who have military service?

Mr. BLAIR. At this point it is my understanding that Treasury picks up the difference, any of the normal cost differences above the 7 percent contribution that the agency makes. So in other words, not only with the military service but also with cost-of-living adjustments and any costs over the 7 percent contribution that an

agency makes on behalf of its employees, Treasury picks up. But sound pension policy would require that those agencies pick up the full difference in the normal cost. That is why CSRS should be on the same actuarial and funding footing as the Federal Employees' Retirement System.

Senator AKAKA. Mr. Blair, I am sure you would agree with me that any changes in funding obligations for retirement-related obligation could impact postal ratepayers, taxpayers, and the Federal budget. How would you assign the responsibility, and how would you structure a mechanism for covering the cost of providing retirement related benefits?

Mr. BLAIR. I think that we have done that in a sound manner with the legislation that was enacted last year. We need to remember where we came from with this legislation. That over the course of the last 30 years we have attempted to have the Postal Service pay for its pension obligations in a random, piecemeal fashion. First, with covering the cost of salary increases and then with covering the cost-of-living adjustments and then making that retroactive. But it was all done on what we call a static basis, meaning that we projected what the cost would be, put the payments in legislation, and never had to revisit them.

But at the urging of this Committee, GAO came to OPM, 18 months ago I believe it was, and said, why don't you look at this? For the first time we looked at the Postal Service's pension obligations apart from the rest of the Federal Government and said, what would it look like if we took their system and applied a dynamic funding process to that from 1971? What we came up with was the fact that by continuing those revenue streams that they had into the Federal Government for pieces and parts of the retirement component, they would have overfunded their entire pension obligation by over \$78 billion.

So that is why the administration recommended, and this Committee did the right thing, in moving quickly with legislation changing the methodology under which we determine funding for the Postal Service. We think that that is the right thing. We have put the Postal Service's pension funding on sound actuarial funding. But we are concerned that efforts to shift back to the taxpayers bits and pieces and components of that funding do not move us in the right direction. Rather it moves us in the wrong direction. Because we would like to see the rest of the government moved in the same direction as we have done for the Postal Service.

Senator AKAKA. Thank you very much for your responses, Mr. Blair. Thank you, Madam Chairman.

Chairman COLLINS. Thank you.

Thank you very much for your testimony today. We look forward to working with both of you very closely as we continue to examine these important issues. Thank you.

I would now like to call forth our second panel of witnesses. William Young is the President of the National Association——

Senator AKAKA. Madam Chairman, may I?

Chairman COLLINS. Yes.

Senator AKAKA. Madam Chairman, I want to take a moment to wish our witness well, and also note that he celebrated a birthday yesterday.

Chairman COLLINS. Are you going to tell us which one?

Senator AKAKA. No.

Chairman COLLINS. He is a good friend to you, Mr. Blair. I join in wishing you happy birthday as well.

Senator AKAKA. Thank you, Madam Chairman.

Chairman COLLINS. Thank you.

William Young is the President of the National Association of Letter Carriers. He began his postal career almost 40 years ago.

Dale Holton is the National President of the National Rural Letter Carriers of America. He began his postal career in 1976 as a substitute letter carrier.

William Burrus is the President of the American Postal Workers Union. Prior to being elected president he served for 21 years as the APWU's executive vice president and he began his career as a distribution clerk in 1958.

John Hegarty is the President of the National Postal Mail Handlers Union. He previously served as President of Local 301 in New England, which is the second largest local union affiliated with the mail handlers union. This is his 20th year with the Postal Service.

So we are very pleased to welcome you gentlemen here today, not only as the elected presidents of your respective unions but also because you have a wealth of experience in the Postal Service that I think will be very helpful to this Committee as we continue to work through these issues.

Mr. Young, we will start with you.

#### **TESTIMONY OF WILLIAM YOUNG,<sup>1</sup> PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS**

Mr. YOUNG. Good morning. On behalf of the 300,000 active and retired city letter carriers across the Nation, thank you for this opportunity to share our views on the crucial issue of postal reform. NALC is the exclusive collective bargaining agent representative of approximately 220,000 city letter carriers who work in every State and Territory in the Nation. City letter carriers have a tremendous stake in the future of the Postal Service. For them postal reform is not simply a policy matter or even a political issue. It is a matter of great personal importance for themselves and their families. So I wish to thank Chairman Collins, Senator Carper, and all the Members of this Committee for taking up this vitally important issue.

Over the past decade my union has been urging Congress to pursue comprehensive postal reform. We have long recognized the need for a new business model for the Postal Service in the age of the Internet. Until recently the debate on postal reform has been largely confined to the House of Representatives. Thanks to the new leadership of this Committee and the work of the recent Presidential Commission, both ends of Pennsylvania Avenue, we finally have a real chance for progress on postal reform.

NALC supports the general principles for reform recently outlined by President Bush and we look forward to working with the leaders of both houses of Congress to achieve bipartisan support. Today I would like to briefly address the big picture of postal re-

<sup>1</sup> The prepared statement of Mr. Young appears in the Appendix on page 186.

form before turning to the key workforce issues that are the main topic of the panel's testimony.

NALC believes that the Postal Service's unmatched ability to reach every household and business in America 6 days a week is a vital part of the Nation's infrastructure. Universal service of letters, direct mail, periodicals, and parcels by the USPS is absolutely essential for the economic health of the United States. As such, it is important to take steps now to strengthen the Postal Service's ability to function in the face of technological change.

We urge Congress to reject a pure downsizing strategy and to embrace an empowerment strategy for the Postal Service. The USPS should be given the commercial freedom it needs to maximize the value of its universal service network by adding services and working with its customers to find new uses of the mail to replace those uses that are now migrating to electronic alternatives. Greater commercial freedom, which involves flexibility over pricing and the ability to strike partnerships to optimize the value of its network would allow the Postal Service to maximize revenues and control costs while retaining the value of universal service.

We recognize this approach poses a difficult challenge of balancing the commercial concerns and public service considerations, but we believe it is possible to give the Postal Service the flexibility it needs while protecting the legitimate concerns of competitors, customers and the public at large.

Let me now turn to the main topic of the hearing, postal workforce issues. Our starting point is simple: Collective bargaining is a fundamental right of all, and the Postal Reorganization Act rightly established collective bargaining in the Postal Service under the auspices of the National Labor Relations Act. I would like to make a couple of general observations before suggesting some guiding principles for workforce reforms.

First, I would like to point out that collective bargaining in the Postal Service has been a resounding success. Since the Postal Reorganization Act was enacted there has not been a single work stoppage or significant disruption in service as a result of labor relations. Given that the Postal Reorganization Act was enacted in part as a result of a national strike in 1970, this 34-year record of peaceful labor relations should not be minimized. The fact is that postal collective bargaining has been a win-win-win proposition. Postal workers have achieved decent pay and benefits, taxpayers have saved billions through the elimination of direct and indirect taxpayer subsidies, and the mailers have enjoyed affordable postage rates.

Second, it is important to note that neither the postal unions nor postal management favor radical changes to the existing collective bargaining system. Given that all sides agree that mail delivery is an essential public service, that we should not be disrupted by lockouts or strikes, a workable system for resolving collective bargaining impasses is essential. NALC believes the existing system of interest arbitration has worked extremely well.

Third, it is important to note that postal labor relations have improved dramatically in recent years. Three of the four unions now have labor contracts in place that were voluntarily negotiated, and all four have made progress in reducing the number of workplace

grievances using various mechanisms. These improvements occurred not because Congress or the GAO or any other outside party mandated them. They happened because the parties themselves worked very hard to find common ground and to seek ways to resolve mutual problems. Postmaster General Jack Potter and his team deserve credit for working with us to achieve this transformation.

With these general points in mind, NALC urges you to abide by four principles when you consider the reform of the collective bargaining system. One, I urge you to follow the Hippocratic oath, first, do no harm. The system we have is not perfect. Indeed, no system is perfect. But the parties have learned how to work together within the current framework, and as I outlined above, the process has worked well for all concerned. At a time of great change for the Postal Service in almost all other areas, labor stability is crucial.

Two, maintain the flexibility that is currently built into the PRA. The PRA contains specific but flexible timetables for negotiating contracts and resolving collective bargaining impasses. It also provides a menu of options for impasse resolution and it gives the parties the flexibility to shape these options for use when appropriate as conditions change. Indeed, the unions at this table have used at various times mediation, fact-finding, mediation-arbitration, mediation-fact-finding in combination, and last best offer arbitration. In the fact of constant change, the flexibility of the current law is a virtue.

Three, avoid politicizing the collective bargaining process. Congressional or White House intervention in the process would be highly destructive. This would inevitably happen if a politically appointed regulatory body were injected into the negotiations process.

Four, avoid exposing the process to outside litigation. Subjecting the results of collective bargaining to litigation before a postal regulatory board as proposed by the President's Commission would be disastrous to the process. Depending on the prevailing political winds of the day and the makeup of the regulatory board at any particular moment, either side might be tempted to try to obtain from the regulators what they could not expect to achieve through good-faith bargaining.

Finally I wish to address a couple of specific issues that have arisen in the wake of the report of the President's Commission on the Postal Service, those being the direct negotiations of pension and health benefits and the changes in the system of interest arbitration.

I am not sure that this Committee understands, perhaps they do, that in the current law we subject a lot of this to collective bargaining. Not the benefits, but the pay, the cost of the premiums that employees pay is subject to collective bargaining. In the area of health benefits, postal management and its unions already negotiate the share of premiums to be paid by the workers and the Postal Service. When it comes to negotiating wage increases, the rising costs of pensions is explicitly discussed by the parties. The so-called roll-up factor for employee fringe benefits, the added cost of benefits when postal wages are increased, is never far from the negotiator's mind. You can be sure that no interest arbitration

panel employed over the past 20 years has been spared evidence from both sides on the cost of health and benefit pension benefits.

My point is this. Although the parties do not directly negotiate over all aspects of postal benefit costs, these costs are not ignored, and invariably they affect the results of our wage negotiations. Indeed, a close examination of postal wage trends over the past 25 years reveals that postal wages have increased nearly 15 percent less than wages in the private sector as measured by the employment cost index. This wage restraint is a direct reflection of the efforts of negotiators, and in some instances arbitrators, to restrain wage costs in the face of rising health and pension cost for the Postal Service, a trend that has affected all American employers.

Given this context, we simply believe it is not necessary to formally place health and pension programs on the collective bargaining table. The parties already effectively take these costs into account under the existing system.

I would like to end with a couple of points about the reforms suggested in the Commission's report to the interest arbitration procedure. We believe these changes are unnecessary and counterproductive for a couple of very practical reasons.

First, the Commission's proposal would discard 30 years of experience by the parties and require us to start all over again under a radically different process, a prospect that would inevitably impose significant costs on both sides.

Second, we believe the only workable changes to the system of collective bargaining must be developed and negotiated by the parties themselves, not externally legislated or mandated. Both parties must see this process as their process for the results to be legitimate. The existing system gives us the flexibility to shape the dispute resolution process without outside intervention.

Allow me to add one last note on interest arbitration. We believe the existing dispute resolution system is a fair and acceptable alternative to the right to strike. I say this not because we always prevail when we go to interest arbitration. Indeed, on more than one occasion we have lost. In the 1990's, an interest arbitration panel chaired by Richard Mittenenthal adopted a USPS proposal to create a lower paid temporary workforce to handle the transition to full automation. And another panel chaired by Rolf Valtin increased the employee's share of health benefits premiums.

But I say it is fair because win or lose my members know that the existing system gives us a fair shot on the merits and therefore they accept the results as legitimate. The Commission's proposed changes in the area of interest arbitration fail this basic test of the fairness.

I want to conclude my testimony by repeating something I told the members of the President's Commission at its first public hearing in February 2003. Good labor relations must be built on trust and on good faith between the parties. No amount of tinkering with the mechanics of the collective bargaining process will change that basic fact. At this moment of great challenges for the Postal Service we have worked hard with the Postmaster General to build trust between us and to improve the workplace culture in the Postal Service. Please tread lightly in these areas so as not to risk the progress we made.

I offer this Committee the full cooperation of the men and women who deliver the Nation's mail every day. Working together we can ensure that every American household and business will continue to enjoy the best postal service in the world for decades to come. Thank you very much.

Chairman COLLINS. Thank you. Mr. Holton.

**TESTIMONY OF DALE HOLTON,<sup>1</sup> NATIONAL PRESIDENT,  
NATIONAL RURAL LETTER CARRIERS**

Mr. HOLTON. Good morning, Chairman Collins and Senator Akaka. My name is Dale Holton and I am President of the 103,000-member National Rural Letter Carriers Association.

Once again we thank President Bush for creating the Commission on the future of the Postal Service. We think the commissioners did a very good job in a very short window of time, being 6 months instead of maybe a year or more. Given their deadline we believe their intents were laudable. However, their governance recommendations are puzzling, their collective bargaining recommendations are problematic, and their pension and health benefit recommendations are perilous.

Under the issue of governance, the proposed new regulator is assigned a study of pay comparability. In our opinion, pay comparability is a management-labor issue, not a regulatory issue. No other regulatory agency in Washington conducts wage comparability studies of workers in industries it regulates; not the FAA, the SEC, FTC, or FDIC. We believe that any discrepancies in comparability that are perceived to exist can be addressed through collective bargaining between management and labor. If the Postal Service goes in a downward revenue spiral we anticipate that through collective bargaining and ultimately interest arbitration if it becomes necessary, the case will be made by the Postal Service to hold the line on wages or provide for increased productivity in order to balance those economic factors. I speak from experience because after all, this is what happened to us in our last round of negotiations.

With regard to the changes proposed to collective bargaining, we find them to be problematic. The system of collective bargaining that Congress designed 30 years ago continues to work well today. This Commission proposes changes in the law that would remove flexibility. We believe that the optional system works best.

In binding arbitration there is no guarantee that either side will prevail. The National Rural Letter Carriers Association and the Postal Service 2000 contract negotiations went to binding arbitration. Both parties opted to utilize a single arbitrator all the way through from mediation to binding arbitration. You could say we utilized the med-arb process. We opted for it. We mutually agreed to do it.

Now I would have to say that one of your previous witnesses talked about what a great success that process was. I would dare say if you questioned any one of 103,000 members that we represent they would disagree. But I would like to explain that rural letter carriers are paid on an evaluated system. We have to mul-

<sup>1</sup> The prepared statement of Mr. Holton appears in the Appendix on page 192.



tiply the amount of our route mileage, the number of deliveries, and an actual count of the mail in order to get a result in total hours per week, which is the route's evaluation. This evaluation is the basis of the rural carrier's compensation.

Arbitrator John Calhoun Wells, listening to all the testimony, awarded the Postal Service an increase in the work pace of rural carriers as they case their mail. The Wells award decreased the time value of each piece of mail in the annual mail count. The award decreased the pay of the average rural carrier 3.1 hours per week. Each hour is worth \$1,500 a year. Arbitrator Wells granted a pay raise of \$2,600 which did not compensate for the \$4,600 loss. Senators, you do the math and you tell me who won the arbitration.

The point is, binding arbitration does not guarantee that the union is going to win every time. The savings to the Postal Service by their own figures was approximately 12 million less paid hours annually due to this arbitration award. The award savings to the Postal Service for rural carrier compensation is \$324 million annually.

During those arbitration proceedings it took the NRLCA and the Postal Service 7 months to schedule 21 days of hearings. The expedited timetables proposed by the Commission are laudable but we feel they are unattainable. The most impossible proposal is to schedule three independent arbitrators and wrap it up in 60 days. Again, it took us 7 months to get 21 days out of one arbitrator. We cannot imagine scheduling three in a 60-day window. That is unless you only count the days that we actually hold hearings.

My points being that binding arbitration does not always favor the union, the existing procedures allow for flexibility to do the things that the Commission proposes, and the proposals to change the collective bargaining procedures and timetables are not workable. All of these points make the proposal by the Commission to change collective bargaining problematic.

The Commission's idea that pension and health benefits should be subject to collective bargaining are perilous. Currently the Postal Service has no responsibility to manage a pension or a health benefits system. The Office of Personnel Management performs that task quite capably. Postal workers are one of every three civilian Federal employees. Removing one-third of the participants out of the current retirement system and health benefit program could have a serious adverse impact on the existing FERS and FEHB programs.

In order to separate the pension system, the Postal Service would need three critical items. They would need investment experts, elaborate recordkeeping, and creation of a pension trust fund. The National Rural Letter Carriers' Association and probably the other unions would demand some kind of joint trusteeship of any such pension fund.

In the health benefit area we already negotiate. The NRLCA health plan negotiates with our insurance underwriter of 40 years, the Mutual of Omaha Insurance Company. We then negotiate with OPM. For example, the rural carrier health benefit plan could decide next year to pay 100 percent of annual mammographies, since our workforce is 55 percent female. Mutual of Omaha's actuaries

would estimate how many enrollees would utilize this benefit. Mutual would estimate the amount of premium dollars to reserve for this increased benefit. We negotiate how that fits in with allocation of all other premium dollars. OPM would then ask NRLCA how it proposes to pay for that benefit. Are we going to raise premiums, raise the copay, or lower an existing benefit?

Finally, the percentage of the Postal Service's contribution to each employee's health benefit premium is currently subject to collective bargaining. Any changes to the current status of pension and health benefits are perilous to the programs, the Postal Service and the employee. I believe it was the first PMG in Poor Richard's Almanac who said, haste makes waste. In their haste, the Commission made recommendations that to us are puzzling, problematic, and perilous.

I want to thank you for the opportunity to appear here today and ask that my full remarks that were submitted earlier be entered into the record.

Chairman COLLINS. Without objection, all statements will be printed in the record. Thank you for your testimony.

Mr. Burrus.

**TESTIMONY OF WILLIAM BURRUS,<sup>1</sup> PRESIDENT, AMERICAN POSTAL WORKERS UNION, AFL-CIO**

Mr. BURRUS. Good morning, Chairman Collins, and Senator Akaka. Thank you for the opportunity to testify on behalf of the more than 300,000 members of the American Postal Workers Union, AFL-CIO. We are the largest single bargaining union in our country.

We appreciate the opportunity to share with you the views of our members on a most important issue, postal reform. Thank you for your continuing interest in this vital subject. In compliance to your request to limit my testimony to 10 minutes I will summarize my oral statement and will submit my printed text for the record.

This Committee has a historic opportunity to protect and preserve the U.S. Postal Service. But we must be careful to ensure that our efforts in fact preserve the Postal Service for the American public. Too often in this rush for reform, special interests have been considered without balancing the broader needs of our Nation and its individual citizens. The debate has been driven by the mailing industry as it seeks to shape the Postal Service in a way that best serves its interest. This is neither surprising or bad, but it is very important that the Committee distinguish between the public interest and universal mail service and uniform rates and the interest of major mailers in maximizing their profits.

The Committee has requested that testimony be limited to an analysis of the Presidential Commission's workforce related recommendations and I appreciate the flexibility that you afford the witnesses to expand beyond the official request. As president of the union, foremost among my concerns in this review are the interest of our members. But the long-term health of the Postal Service is also a concern, and we promise to join with those who seek positive change.

<sup>1</sup> The prepared statement of Mr. Burrus appears in the Appendix on page 199.

Before I discuss the specific workforce recommendations in the Commission's report, I urge that primary attention be focused on the Commission recommendation that the Postal Service be relieved of the military retiree costs and that the escrow of the CSRS contribution be resolved.

A third consideration that is also important is resolution of the OPM decision to shift to the Postal Service \$86 billion in cost for services attributed to previous Federal Government employment. These would be enormous burdens to the Postal Service, to consumers, and to the mailing industry, and the correction of these problems may be the most important actions that Congress could take to preserve and protect the Postal Service.

The Commission's deliberations. In considering the recommendations of the Commission report I want to emphasize that the Presidential Commission did not give sufficient consideration to the needs of individual Americans and small businesses. As a result there were no recommendations in the report addressing concerns of the public. The commissioners hearings and private meetings were dominated by large mailers. While their interests should be considered, it should not be to the exclusion of all others. It is now up to the Members of Congress to examine the public interest.

The widespread support for postal reform is based on the premise that the Postal Service is a failing institution, one that is at risk of entering a death spiral. But I believe it is premature to make a final determination on this matter. We must remember that postal volume continues to recover from the effects of several events, the terrorist attacks of September 11, followed by the anthrax attack that took the lives of two of our members. These two events were superimposed over the recession that began in early 2001 from which we are only now beginning to recover, a relatively weak and inconsistent recovery. If one were to extract the impact of technological diversion, these events standing alone would have had a serious impact on postal volume.

But there are positive signs. The Postal Service recently reported that mail volume during the 2003 Christmas mailing season increased sharply over the previous year, resulting in the highest volume period in the history of the Postal Service. Are we to believe that technological impact took a holiday this Christmas, or are other factors at work?

Throughout this period of technological upheaval the Postal Service has shown a remarkable capacity to provide excellent service. Despite declining mail volume, productivity increased and service standards were maintained. A recent privacy trust survey ranked the Postal Service No. 1 in trust. These are remarkable achievements.

Because of the unprecedented productivity increases and efficiency there is strong reason to believe that the Postal Service revenues could be sufficient to support universal service far into the future if rates are properly set. My union, the APWU, has been a vocal critic of unfair rate setting that benefits some very large mailers at the expense of consumers and small businesses. The Postal Service's own data shows that work-sharing discounts provided to major mailers exceed the cost avoided by the Postal Serv-

ice. These excessive discounts cost the Postal Service hundreds of millions of dollars in lost revenue every year.

A recent personal experience highlights the inequities of excessive postage discounts. Several weeks ago I received two First-Class letters, one bearing a 37-cent stamp and one which paid 27 cents. Both letters were bar-coded to be processed efficiently by the postal mail stream. The letter with 27 cents postage was deposited in the mail stream in Charlotte, North Carolina to be processed and transported to southern Maryland where I live. The one with 37 cents was deposited in Washington, DC, some 400 miles closer to its destination. The 27-cent letter required manual distribution by the Postal Service itself once it was received in the delivery unit. The postage rate for the most costly letter including transportation and processing was in fact 10 cents less.

The suggestion that mail volume will suffer if discounts are adjusted to represent accurate costs avoided is ludicrous on its face. This argument taken to its logical conclusion is that unless the Postal Service loses money on discounted mail, mailers will find other alternatives. If this were true, it would not make sense—to discharge the notion that logic—that there must be a connection between postal costs and discounts. Certainly free postage would guarantee increased volume.

The problem of discounts was acknowledged by the Presidential Commission's recommendations that all future discounts be limited to the cost avoided. This is simply not good enough. That horse has left the barn and we need to get it back to preserve universal service in the public interest.

Some interested parties have responded by calling for bottom-up pricing or bottom-up costing. These concepts would establish a system whereby mailers pay a pro rated share for the services they use. I would urge the Congress or the rate Commission to be extremely careful in pursuing this rate strategy. The primary consideration must be adequate funding for universal service at uniform rates. Lurking on the horizon would be exceptions that would result in surcharges for services.

I believe that we will all agree that postal reform will have marginal impact on future mail volume. And if not, adjusting to the current business model must focus on future rates. Overlooked on this analysis is the fact that the current business model does not determine the relative contribution to the institutional cost by First-Class Mail as compared to standard mail. If First-Class Mail grows or declines, the question of dividing institutional cost among all classes of mail will remain. At present it takes approximately three pieces of standard mail to make up for one piece of First-Class Mail. This distribution of cost is a rate-setting decision that will be unresolved by postal reform. The elimination of excessive discounts along with more appropriate pricing would bolster postal revenues and preserve universal service.

Now I will discuss the specific workforce related Commission recommendations. As the Committee specifically requested I will now state our views on the workforce related recommendations of the commission, and I begin with our conclusion that the workforce recommendations are outrageous and totally unacceptable to me and to the workers I represent.

As I have previously said, on the subject of workforce issues the report is fundamentally dishonest. The report repeatedly states that the Commission supports the rights of workers to engage in collective bargaining. Nevertheless, it recommends the establishment of a regulatory board appointed by the President with the authority to set compensation of postal employees. It is completely inconsistent and totally unacceptable for the Commission to espouse a commitment to collective bargaining while simultaneously recommending that postal compensation be dictated by an appointed board.

Testifying before this Committee on September 17, 2003, Co-Chairman James Johnson testified that any employee compensation change would be prospective and that current employees would not be impacted. While in fact Commission recommendations would authorize the board to impose a cap on the compensation of new employees and to reduce the compensation of current employees. While the Commission recommends pay-for-performance it fails to note that there is nothing in the current law that prohibits or inhibits pay-for-performance. In fact we have negotiated on several occasions at the bargaining table on the subject of pay-for-performance.

The Commission seems to believe that postal workers are fools. The following disingenuous platitudes appear in the report. One, plans for modernizing the Nation's postal network must effectively utilize the Postal Service's most valuable asset, its employees. Two, essential to this process is the ability of management and labor to work together. Three, first and foremost, Postal Service management must repair its strained relationship with its employees.

In contrast to these statements, the Commission's specific recommendations are an invitation to open conflict with its postal employees. The report paid lip service to the importance of good labor relations, while making recommendations that would guarantee labor conflict.

The Commission's recommendations to change the collective bargaining process are unwise and would be counterproductive. Current law permits the parties maximum flexibility in resolving contractual impasse and over the years the parties have negotiated every subject identified by the commission: Health benefits, flexibility, retirement, no layoff protection, wages, a two-tier workforce, and many others including pay-for-performance. When the parties have disagreed they have used last best final offer, fact-finding, mediation, and at least once the parties' mediator became the neutral interest arbitrator. But more importantly, most often we have agreed at the bargaining table and concluded negotiations without outside interference.

The Commission is wrong to say that any one of these methods is the best way of helping the parties reach agreement. Each negotiation brings its own challenges, and the best way to meet these challenges is to permit the parties to adjust to the conditions at hand rather than to impose a fixed statutory process. We know how to reach agreement and we have done so 65 times over the 32-year period of collective bargaining.

Benefits. The Commission urged Congress to consider removing postal employees from Federal retirement and retiree health care

plans. This would be a diametric departure from appropriate public policy. We categorically reject the contention that it would be appropriate for postal employees now or in the future to be paid fringe benefits that are less than those provided to other Federal employees.

In recent years postal workers have repeatedly stood on the front lines of homeland security. When hired, they submit to background checks and fingerprinting, and they are administered a Federal oath of office. The anthrax attack that resulted in the death of two of our members and the recent ricin attacks expose the perils of postal employment and our role in the Nation's defense. In the anthrax attacks we rationalized the disparate treatment of postal employees as compared to the occupants of Senate office buildings. But the ricin attacks exposed the fact that there is a double standard. Senate office buildings are vacated and tested for a period as long as it takes while postal employees are not even informed that they have been exposed.

The administration has been quoted as saying that those who needed to know and needed to act upon it were aware of it. And the administration budget now includes a complete elimination of homeland security building decontamination research. The message is no warning, no cleanup. This is unacceptable. Postal workers will not be treated like the canaries in the mining industry in years gone by.

Health benefits, whether for active workers and the families, for people who have been injured on the job, or for retirees and their families are very powerful and emotional issues. It would be a callous act to reduce the benefits of postal workers injured by anthrax or exposed to ricin. How would this be explained to the widows of Brothers Curseen or Morris?

The collective bargaining provisions in existing law have worked well. They have resulted in labor costs that have tracked the increase in the CPI and the ECI. In comparison, we believe that the wages and fringe benefits paid by UPS and FedEx provide an appropriate and useful yardstick for postal compensation. These are the largest American companies whose workers perform some of the same tasks that we perform. They are, of course, direct competitors to the Postal Service. These companies pay their career employees wages and benefits that compare very favorably to the wages and benefits our members receive.

The American Postal Workers Union finds the Commission report unacceptable in its recommendations on collective bargaining.

Chairman COLLINS. Excuse me, Mr. Burrus, you are now almost 7 minutes over your allotted time, so if I could ask you to try to summarize. Thank you.

Mr. BURRUS. I will conclude.

In conclusion, I want to return to the most urgent needs of the Postal Service, military retirement costs at \$27 billion, the escrow cost at \$10 billion, and that the position of my union not be misunderstood on the broad issue of postal reform. Because of our outspoken positions on the Presidential Commission work-sharing discounts, it is convenient to report that APW opposes reform. This is not true, and for the record, we could support structural change to the Postal Reorganization Act that would improve the Postal

Service beyond relief from the financial burdens. We support rate flexibility, the ability to add new products and better utilization of the network, the right to borrow, invest, and retain earnings, and the limitation of work-sharing discounts. These changes would ensure the continued effectiveness of the Postal Service far into the future.

Thank you for your patience. Thank you again for your continuing interest in the Postal Service and I would be pleased to answer any questions you may have.

Chairman COLLINS. Thank you, Mr. Burrus. Mr. Hegarty.

**TESTIMONY OF JOHN F. HEGARTY,<sup>1</sup> PRESIDENT, NATIONAL  
POSTAL MAIL HANDLERS UNION**

Mr. HEGARTY. Good morning, Madam Chairman, Senator Carper. Thank you for the opportunity to testify, and also thank you to the rest of the Committee. My name is John Hegarty. I am the President of the National Postal Mail Handlers Union, which serves as the exclusive bargaining agent for 57,000 mail handlers.

The Mail Handlers Union hopes to remain an active participant in the process of postal reform. The recently released White House principles show that the White House has considerable confidence in the expertise and legislative initiative of your Committee and that of your House counterparts. I would like to congratulate each of you who have provided leadership on this issue.

I would like to take a few moments to comment on the latest terrorist homeland security issue affecting both Congress and the U.S. Postal Service. I am talking, of course, about the ricin incident in Senator Frist's mailroom earlier this month. It is perhaps ironic that this threat occurred on the evening before we were scheduled to testify before this Committee on the future of the Postal Service and its employees. The advance National Postal Mail Handlers Union written testimony raised the danger of substances such as ricin and anthrax and noted why career mail handlers are so crucial to the safety and security of our country. That hearing, obviously, was postponed but the need for safety and security goes on.

As a mail handler from a large processing plant in Springfield, Massachusetts let me briefly explain how these types of terrorist threats could impact mail handlers. Mail handlers are generally the first to handle mail when it enters a processing plant. Raw or unprocessed mail which could be letter-sized envelopes or larger flat-sized envelopes, and in some operations parcels and packages are dumped typically on a conveyor belt and sorted or culled by mail handlers. Letters and flats would then be run through a cancellation machine to cancel the stamps and would then be forwarded to other mail processing machinery throughout the building, which is typically manned by either mail handlers or clerks.

After all the processing is completed mail handlers load the processed mail into the outbound transportation for smaller post offices to be sorted where the letter carriers will then, and the rural carriers will deliver to the addresses.

As you can see, this is a labor-intensive, hands-on type of mail processing. Mail handlers, and indeed all craft employees are there-

<sup>1</sup> The prepared statement of Mr. Hegarty appears in the Appendix on page 216.

fore on the front lines when it comes to possible exposure to biological agents or other terrorist threats through the mail.

As always, the safety of mail handlers and other postal employees is the first concern of the National Postal Mail Handlers Union. We are working with the Postal Service through the Task Force on Mail Security on dangerous incidents such as this. We appreciate the funding that Congress has already appropriated for biodetection systems to keep our employees safe and we look forward to working with Congress in the future on these issues.

The Mail Handlers Union also appreciates the swiftness of your reaction to the CSRS funding problem and the financial strain caused by the deadly anthrax attacks. Similar financial issues remain, however, and congressional resolution of both the escrow issue and the military service issue are of immediate and paramount importance to the financial future of the Postal Service. Not releasing the postal escrow account or forcing the Postal Service to pick up more than \$27 billion in military costs that no other Federal agency has to pay certainly will result in a severe crisis to the Postal Service and ultimately a hike in the cost of postage to all ratepayers. We are prepared to do whatever it takes to get both of these matters resolved swiftly.

My union also counts itself as a strong supporter of legislative change that would grant the Postal Service additional flexibility in pricing, borrowing and the design of postal products. Such changes must allow the Postal Service to establish postal rates that remain affordable both to the major business mailers and the average American consumer while providing sufficient revenue to protect and support the infrastructure that universal service requires, and to provide postal employees with a decent and fair standard of living.

Let me turn directly to collective bargaining in the Postal Service. I truly believe that the term "best practices" can be applied to Postal Service labor relations. In general our collective bargaining process is seen by others as a model of flexibility and labor peace. In recent years, moreover, all parties have been working on these matters diligently and our efforts have resulted in some dramatic progress. The Mail Handlers Union strongly endorses the current process for collective bargaining under the Postal Reorganization Act. Our current national agreement covers the period from November 2000 through November 2006. Although it originally was scheduled to terminate later this year, we recently reached an agreement with the Postal Service on a two-year extension that was overwhelmingly ratified by our membership.

Nor is productive collective bargaining a recent phenomenon. Since the Postal Reorganization Act was enacted in 1970 we have engaged in 13 rounds of full collective bargaining with the Postal Service, 8 of which, including the last three, have resulted in voluntary agreements that were endorsed by postal management and ratified by the union membership. The other five were resolved through arbitration with the results willingly accepted by both parties. On at least three of the five occasions when the parties used arbitration, however, the parties actually settled most open issues and arbitrated only one or two issues that could not be resolved without an arbitrator's decision.



Even when arbitration does occur, there are no guarantees. For example, arbitration in the 1984 round of bargaining created a lower entry rate for new mail handlers. An arbitration in the 1990 round of bargaining produced 3 years without any general wage increases for mail handlers. Because both parties accepted the process, however, even these clear management victories were implemented peacefully.

The key advantage of the current bargaining process is its flexibility. Under the current statute, the parties to any bargaining dispute are allowed to devise their own procedural system for resolving their dispute. Thus, under the PRA, fact-finding followed by arbitration is the default position, but the parties in prior years have used fact-finding, mediation, arbitration, and a multiple combination of these processes to resolve their disputes. If the procedural changes recommended by the Presidential Commission were adopted, this flexibility would be eliminated and instead the parties would be constrained by rigid procedural rules that in our view would not improve the collective bargaining process one iota.

The Commission said that the core ingredient of its revised procedure is a mediation-arbitration approach to resolve bargaining impasses. Under a med-arb approach, the fact-finding phase now set forth in the PRA would be replaced with a mandatory mediation phase of 30 days, and if the mediation were unsuccessful, the appointed mediator would become one of the final arbitrators. We believe, however, that requiring this med-arb approach would be counterproductive to the successful resolution of many bargaining disputes. The flexibility now part and parcel of the PRA permits the use of med-arb and it has been utilized in prior rounds of bargaining when the parties deemed it advisable.

But compelling the use of med-arb would corrupt any attempts at mediation by destroying the usual confidentiality of the mediation process and making it impossible for either party to actually share its priorities with the appointed mediator. To quote a noted expert, "Parties to a combined mediation-arbitration procedure are often reluctant to retreat from extreme positions or to reveal how they prioritize their interests." It also reduces the likelihood that the arbitrator will have an accurate view of the parties' priorities.

Also part of the Presidential Commission's recommendations is a proposal that would replace the parties' current practice which uses a three-member arbitration panel in which each party chooses one arbitrator and then the parties jointly select one neutral arbitrator with three outside arbitrators. In our view, this change would have extremely negative consequences for the arbitration process as it would completely remove the parties' respective representatives and their unique expertise from the decisionmaking process. It makes it much more likely that the eventual arbitration decision will be contrary to the desires of either or both parties. It also severely reduces the likelihood that the parties might be able to mediate and settle or narrow their dispute during the arbitration process.

There are also proposals for a 10-day review period after arbitration and a last best final offer, both of which eliminate the current flexibility, which is one of the administration's guiding principles that were recently released by the White House. Frankly, I believe

the Nation is better off with bargaining and binding interest arbitration under the PRA than with any other models. The testimony before the Presidential Commission from postal management, from the postal unions and even from a panel of highly respected neutral arbitrators was consistent, that the current collective bargaining process is working well: For 33 years the parties have avoided the labor strife and economic warfare that often characterizes private sector labor-management relations. Arbitrators and all participants agree that the process has improved dramatically over the years.

There is, in short, no reason whatsoever to amend the statutory provision governing collective bargaining or to otherwise adopt provisions that would allow outside entities to interfere in the collective bargaining process.

The Presidential Commission has also proposed bargaining over health insurance, pensions, and other benefit programs. In fact the current employee contribution rates for health insurance already are bargained, and the health benefits themselves established through the Federal Employee Health Benefit Program, are universally acknowledged to be well-maintained and well-negotiated by OPM. The Mail Handlers Union happens to be the sponsor of one of the largest Federal health plans, and I can assure you that if the Postal Service were ever to withdraw from the Federal Employees Health Benefits System chaos would be the result.

As for annuity benefits, with the passage last year of the "CSRS fix" legislation, all annuity benefits for postal employees are now fully funded. The recommendation on bargaining benefits, therefore, is clearly aimed at guaranteed health insurance for postal retirees. We see absolutely no reason why promises of lifetime health insurance to postal employees should be subject to bargaining, especially when the Federal Government provides these benefits to Federal employees through legislation, and many other large employers also provide similar benefits.

In any event, recent proposals from postal management would allow the Postal Service to ensure funding of these retiree health costs by using the escrow account now available because of pension overfunding. That is an appropriate use for those funds and should be a part of any postal reform.

Thank you for allowing me to testify. I would be glad to answer any questions you may have.

Chairman COLLINS. Thank you, Mr. Hegarty.

Each of you this morning has made very clear the recommendations of the Presidential Commission that trouble you or that you outright oppose. It is understandable that you would focus your testimony on the recommendations that give you the most heartburn.

I would like to ask each of you to now tell me which are the one or two, or two or three recommendations of the Commission that you believe are on point and should be incorporated into the reform bill, assuming that there are any. With Mr. Holton's comments I was reminded of the old story about, aside from that, Mrs. Lincoln, how did you enjoy the play? [Laughter.]

But if there are recommendations that you believe are worthy of inclusion in legislation we would like to hear that as well.

Mr. Young.

Mr. YOUNG. Thank you, Senator. I believe the Commission's recommendations in the area of pricing, flexibility and transparency should be incorporated. I think they are very good. I also like the Commission's recommendation on retention of universal service, but I would tweak it a little bit because I think that is a public policy matter and I think if I was a member, and I am not, of Congress, I would want to retain the jurisdiction over that myself, because it is awful clear to me that when the people up in Maine do not get the kind of service that they have been accustomed to, they are not going to be calling any regulatory board. They will be calling Senator Collins and asking why that is the case.

I also like the idea that the Postal Service can retain earnings. I think that is an important concept that ought to be adopted.

Chairman COLLINS. Thank you. Mr. Holton.

Mr. HOLTON. I concur with what my colleague has already said. I also believe that the CSRS military pension portion of it should be adopted also.

Chairman COLLINS. Thank you. Mr. Burrus.

Mr. BURRUS. I agree with the Committee's recommendation regarding the CSRS pension liability issue as well as the three issues mentioned by my two colleagues. In addition, the opportunity to add new products. I think for growth into the future the Postal Service needs to have the opportunity to be able to add products, so I would add that as a fourth item.

Chairman COLLINS. Mr. Hegarty.

Mr. HEGARTY. I would also concur with the pricing flexibility. I think the recent hike in gas prices would point out the need or the disadvantage that the Postal Service faces when it comes to dealing with issues such as a gas increase, where UPS and FedEx and some of the competitors immediately establish a surcharge for their deliveries. The Postal Service is prohibited by law from doing so.

The other thing that I think the Postal Service should be able to do is to negotiate discounts with their larger customers. One thing that caught my eye in talking with Peter Fisher of the Treasury Department last year is that the United States Mint, which mails out probably millions and millions of coins each year to collectors, uses UPS or FedEx. They do not use the U.S. Postal Service. The reason they do not is they can get a better rate because of volume discounts. I think if a company such as Amazon.com or the United States Mint approaches the Postal Service and says, "I will give you three million pieces per month, what can you give me for a discount?" Right now the Postal Service says, "I cannot give you any discount." I think that should be corrected.

Chairman COLLINS. Thank you. Each of you has considerable experience in collective bargaining and you have made clear your opposition to many of the changes recommended by the commission. But I would like to walk you through a few of them just to make sure that I understand where you are because these issues are so complicated and you do bring a great deal of experience in collective bargaining to the Committee today.

The Commission recommended that the current fact-finding period be replaced by 30 days of mandatory mediation. I would like to know whether you find the fact-finding process to be useful, and how frequently it is waived by the parties. Mr. Young.

Mr. YOUNG. So far we have used it, Senator. I do not find it particularly useful, and I will be candid and open in telling you why. Because neither party wants to litigate the issue twice. If we are not able to strike an agreement, the 1998 historic agreement for letter carriers that elevated my members from level five to level six, we bargained hard with the Postal Service and we almost go there. The differences really were not that great. We then engaged in a mediation process. Neither party really was candid or open with the mediator because they did not want to put their case on twice. We knew that the parties ultimately were not going to agree. That it was going to have to go to an arbitrator.

I think the panel of arbitrators that testified before the Commission could add some clarity to your inquiry here, Senator, if you are interested because they have even more experience than I do and they were saying similar things about their experiences, which are greater than mine, broader than mine. Mine are related only to the post office. Theirs, of course, to other industries. But that is the real problem with trying to do that.

Chairman COLLINS. Thank you. Mr. Holton.

Mr. HOLTON. I tend to agree. We have only, in 33 years, been through fact-finding and arbitration twice. All other times we have come to agreement on our contract. But in those times, fact-finding, you put on your case once, for the most part. You may not go into as much detail or depth with it, but you still put it on. You have someone that issues a fact-finding report and, as in our example, the first time, the fact-finding report was in our favor which would tend to lead you back to the bargaining table and say, OK, if we go to arbitration these things will be in our favor so we need to bargain more on it. And then turn right around and you go to arbitration and then you get a second bite of the apple, so to speak, and find an arbitrator that rules the other way.

So the point is, you are putting on your case twice. Everybody knows what the issues are as far as the parties go. They know what the issues are. They know what we are going to be up against, and regardless of what the fact-finding panel returns as a suggestion there is still nothing that tells you you have to go through with that, so it may not be a necessary step.

Chairman COLLINS. Mr. Burrus.

Mr. BURRUS. Our union finds fact-finding to have no value whatsoever. We had one very bad experience many years ago that after completing the fact-finding process, very laborious, put on a full-blown case, the fact-finder concluded that the parties had a disagreement. That was his decision. He concluded we had a disagreement, which we knew when we began the process.

The current statutory language requires fact-finding, but the parties, the Postal Service and the unions find it in their mutual best interest not to invoke the statute. At the conclusion of every negotiation session, and I have had more experience than my colleagues here in terms of negotiating national agreements, the chief negotiator. But at the conclusion of every national negotiation I am terribly nervous about the Postal Service invoking the law, of requiring us to go to fact-finding. They have found that is not in their interest either. So we have avoided—mutual agreement to avoid fact-finding because we just do not find it in our interest for the

very reasons stated, that we are required to put the same case on twice. They do not want to expose their case. We certainly do not want to expose ours.

Chairman COLLINS. Thank you. Mr. Hegarty.

Mr. HEGARTY. I think whether you are talking about fact-finding or mediation or any other dispute resolution mechanism, it depends on the nature of the impasse. As I said in my testimony, in many of our arbitration decisions we really only had one or two items in front of the arbitrator that we had to negotiate. The parties knew where they stood on most of the items, but there may have been one or two items such as pay raises, and cost-of-living adjustments that might have been in dispute. I think the parties need the flexibility at the end of the process to determine, based on the nature of the impasse, what dispute resolution mechanism they wish to utilize.

Chairman COLLINS. Thank you. Since we have had other Members join us I am going to yield back the remainder of my time and we will have 8-minute rounds rather than longer ones that I had originally intended before we were joined by our distinguished colleagues on both sides.

Senator Akaka.

Senator AKAKA. Thank you very much, Madam Chairman. I would again thank all of you for being here. I appreciate the thoroughness with which each of you discussed your union's view of the collective bargaining as well as other workforce recommendations. If I am not mistaken, and since the Chairman has mentioned your experience, I believe the four of you represent 130 years of service to the Postal Service. That tells us something and is quite an accomplishment.

The Commission proposes that the Postal Service negotiate over benefits and implement a pay-for-performance system, yet the Postal Service already negotiates over employee health insurance contribution levels and could negotiate for a pay-for-performance system now. As was indicated by the Chairman, there are differences in your statements so let me ask each of you the same question. Why do you believe that there are such misunderstandings and misrepresentations about Postal Service workforce issues? I would like to start with Mr. Young.

Mr. YOUNG. I have got to be honest with you, Senator, one of the reasons we have to share the responsibility for. My thrust here today is in essence asking the distinguished Senators to consider a hands-off policy in the area of collective bargaining. I am telling you that it has taken us 30 years to figure out what we are doing and I think we are on the right track now. We have developed these relationships and I am totally convinced that the parties themselves have to negotiate these kinds of agreement among themselves and they do not need it forced on them from outside.

But I must admit that my members, and maybe even myself on occasions, have been too willing to come to you all with our problems. I think it was a lack of maturity, and I am going to apologize for the members of my union that still engage in that today. What I mean by that is, some letter carrier perceives that he is mistreated at the workplace. He finds it very easy if he hails from the State of Hawaii to call on his good Senator from Hawaii to come

to his rescue, when in essence that is not what your responsibilities are. You have got much more important things to worry about than those issues. Those issues should be dealt with in the internal dispute resolution procedure that has been established.

So I think one of the reasons that there is some confusion here is we have led to that confusion because we are too willing to reach out to our perceived friends for help when we maybe should be going in a different direction. I think that has contributed a lot to some of the misunderstanding.

I think some of the other misunderstanding is just a lack of experience. I was a little taken back by Mr. Blair's testimony when he acknowledged that the administration does not have much experience when it comes to labor unions, when you were talking about pay-for-performance with him. I was thinking about that, and I had not thought of it in that vein, to be honest with you. But I will tell you all that my union in convention, 8,000 people strong, voted not to accept a pay-for-performance type of a proposal, because we have, as these other presidents indicated, had those kind of proposals advanced in the past.

My members are concerned about the fact that they cannot measure that performance. That is not cut and dried like if you get a step increase after a year's creditable service, everyone understands what that is. They know how to apply that.

I do not mean any disparaging of my colleagues and friends in management in the Postal Service, but they did not have such a great experience with that. They took a pay-for-performance system and most of them people, especially on the lower-graded supervisors, they ended up making less money than letter carriers, and they sacrificed more than they ever got in return.

So that is about as much as I can add as far as to the confusion and I hope that Senators here will pass on to their colleagues what I have said about trying, because I am trying to rein in now the members of my union, to get them to understand that they should only come to you with public policy issues and not with individual personal grievances. I think we can handle those ourselves.

Senator AKAKA. Thank you. Mr. Holton.

Mr. HOLTON. I think the misunderstanding—are you talking about of the Commission itself or the Senators, or are you talking about the public in general? Regardless of which group you are talking about, I think a lot of times when people say Postal Service you only hear horror stories. When you listen to David Letterman, you read the newspaper, you hear about the letter that was 30 years late that was lost somewhere, you hear about an employee who did whatever that was egregious in the workplace. But yet you never hear the fact that the employees that we represent are out there performing a service every day in all kinds of weather, all kinds of circumstances.

I get letters from the Postmaster General daily sometimes about rural carriers who have gone above and beyond the call of duty in putting out fires or saving people that have been hurt. NALC does a great job with their Heroes Awards every year and they cite these things. Those kind of things, we do not get that published out there so when people form a perception of the Postal Service and it's employees they only draw from the David Letterman or who-

ever, or the *Washington Post* or whatever, that shows that this was what was bad in the Postal Service so immediately they paint everybody with one brush. So that may be part of it.

To follow along with what he was saying about pay-for-performance, or would you rather I just wait and get a question on that later? Pay-for-performance, we have participated in that. We had striving for excellence together. We still have an MOU in our contract, memorandum of understanding, which recognizes the benefits of pay-for-performance. The MOU tells us that we should work together to try to find something that mutually promotes the goals of the Postal Service and the employees so that we can use something like that.

There are so many diverse ways to look at it systemwide, specifically rural carrier duties, that we have not been able to come up with a plan that everybody can agree to. So we have just sat here with this MOU in our contract since 1995. But it is something that effects each individual but is to be applied systemwide.

The other thing is, a lot of times when you have pay-for-performance if you are going to make it systemwide you can only look at what the overall system goals are, and as a result those are pushed forward or achieved by everybody involved and not just what the individual rural carrier employee can do. So we have not been able to agree on any of that.

Senator AKAKA. Mr. Burrus.

Mr. BURRUS. Senator, I think that there is a misunderstanding, I think, because we are a government entity and government entities should be transparent and should be responsible to the people. I think that the Postal Service is held accountable for that, and the employees who work for the Postal Service are held accountable equally.

I think it is so very apparent what you say is correct because 94 percent of our mail is provided by the major mailers. They are our major users. Not the average citizen writing to a son or daughter, or to one another within the family. Their micromanagement of the Postal Service is different than their reaction to their other vendors. UPS, FedEx are likewise providers of service, performing very similar service to the Postal Service, but no one questions the wages and the bargaining strategies and the procedures used by UPS or FedEx, while the procedures, the strategies, and the results of the postal negotiations are opened up to the microscope.

So it is because we are a government agency, and it can be micromanaged. You cannot micromanage UPS. You can go to another company. You can take your business to a competitor. There is nobody quite as large as UPS. They have a monopoly just like we do.

But because you can do it to a government agency and we have all of the benefits of both private and public. We have public protection. We have some private rights. We have right of negotiations. Other Federal employees do not have those rights. So we have the right of negotiations but we are still Federal employees, so it opens us up to misunderstandings, deep involvement into our internal process that one would not find if we were a private corporation, purely private. And if we were some other government

agency they would not be making the demands on us because we do not have the same connection with our ratepayers.

Senator AKAKA. Mr. Hegarty.

Mr. HEGARTY. Thank you, Senator. I would say that the misunderstanding about Postal Service issues, a lot of the good things that we do, have been under the radar screen. I agree with Dale, we get a bad rap for the letter that is delivered late or some other negative news about the Postal Service. I am hoping that with the Presidential Commission and with postal reform that some of these good things that we do will come to light. I will just give you a few examples.

I have spoken with the Office of the Inspector General, I have spoken with the GAO over the last year and-a-half and tried to highlight some of the good things we are doing. They have made it into their reports. I did not invent it but we developed a Contract Interpretation Manual. I believe the other crafts, I know the letter carriers have it and the other crafts are looking at it, where we took our national bargaining agreement and took all the gray areas, went back 30 years in postal history and found every agreement that we have ever come to at the national level that says, this is what that means. We put all of that into a big book so now you can use the collective bargaining agreement side by side with the Contract Interpretation Manual and resolve a lot of the pending disputes in our grievance arbitration procedure.

We rolled that out nationwide last fall. We did a joint training with postal headquarters and mail handlers union headquarters on the same stage with a mixed audience. We had the area managers of labor relations, we had our union presidents, we had our union vice presidents and their counterparts in management all in one audience and they heard the same message from both parties: This is the Contract Interpretation Manual. This is what it means. It will be adhered to.

We do not have any concrete results on that yet, because as I said, we just implemented it last fall, but we are in the process of setting up a meeting with postal headquarters to crunch the numbers and see how we did as far as whether the Contract Interpretation Manual is helping us resolve disputes. I believe that it will.

The other thing that we have in the mail handler craft is the quality of work life, which is an interactive process where mail handlers and managers work together in postal facilities to better the quality of their working life. It is outside of the collective bargaining agreement. It has to do with whatever ideas the craft employees and the managers come up with to better process the mail. That has been very successful. We have an annual conference and every year it has grown tremendously in size. That has the full support of the Postmaster General and myself, and both he and I attend the national conference.

The other thing we have developed over the last few years is an intervention protocol, where if we are having a problem facility—and let us be realistic, in an organization of 730,000 people, you are going to have some problems. We have an intervention protocol where if a building or a plant seems to be a problem area, the parties can request intervention and the national parties will send a



team in to evaluate the climate and make recommendations on how to resolve that. We have used that successfully in the past.

So I would say that the reason the misperceptions or miscommunications are out there is they just have not publicized enough of the good things that we are doing.

Briefly on pay-for-performance, under the current collective bargaining agreement pay-for-performance is an option. It is bargainable and I think it should remain that way. I do not think legislating pay-for-performance helps anybody. The problem with pay-for-performance for craft employees is it is very hard to individualize it. I will give you an example.

I mentioned conveyor belts earlier. If this is a conveyor belt and the four of us are processing mail on that conveyor belt, how do you say that John did so many pieces of mail and Bill did so many pieces of mail and Dale did so many pieces of mail? How do you individualize which of the four should get the better performance award? Say you want to just do it by a building, then you are losing the whole essence of pay-for-performance. If you are going to give the plant over in Detroit, Michigan, for instance, a \$200 award because their performance was that good, you are really saying, who within the plant did the job over and above to make that performance that good? Some people in the plant may do an average job. Other people may do an exceptional job.

The other problem with my craft is you get moved around constantly in a plant. I might work on this belt for 2 hours. I might be moved over there due to the needs of the service, so it is very hard to individualize my performance.

Senator AKAKA. Thank you very much, Madam Chairman.

Chairman COLLINS. Thank you, Senator.

We are very pleased to be joined by Senator Stevens, who is not only the chairman of the powerful Appropriations Committee but also a long-time Member of this Committee. He has had a long-standing interest in the Postal Service and in preserving universal service. So we are very pleased that he was able to join us today.

Senator Stevens.

#### **OPENING STATEMENT OF SENATOR STEVENS**

Senator STEVENS. Thank you, Madam Chairman. I sort of am the last of the Mohicans, the last one around that was here at the time of the Postal Reorganization Act. I am pleased to be here with you. I thank you for these hearings. I have gone over the testimony that you all have filed. I am delighted that the Commission recommended that the universal concept be maintained. I think that is the backbone for rural America, and it certainly is for my State.

But I have got to say, I think we have to find some middle ground here with the Commission because I would invite you to come up to my State and go out to dogsled country and go with the people who are out on the ice and see them pick up a Blackberry and send a message to New York. The concepts of broadband, the concepts of wireless are on us as far as basic communications, and the Postal Service seems to now be heading for the time when we are dealing primarily with third-class or parcel post. You may not agree with that but we have got some changes coming, and I do hope that all of you will work with us to make sure that we can

find some common ground here in the Congress with regard to these recommendations from the commission.

As with every commission, Madam Chairman, they have gone beyond the point of achievability. They reach out too far. But I think we have got to admit that they have got some recommendations that we must adopt, and they have got others we are going to have to see if we can modify, and others we are going to reject. We have a difficult job and I am delighted you have got that duty rather than me. I was chair of this Committee.

I do think that within the suggestions of the Commission are suggestions that will reduce the cost of operation that we ought to look at, because clearly we have got to find better ways to assure the cash flow for the Postal Service than maintaining those things which are not efficient. On the other hand, there are some things, like the Senator from Hawaii's mail, parcel post and mail that comes to Alaska that there is no way to make them cost-efficient. So there has to be some basic system that takes into account the cost of universal service.

I look forward to working with you, Madam Chairman. I really do not have any questions for you. I appreciate the fact that you have come here with statements that, as I understand it, indicate a real willingness to go forward and reach a conclusion where we adopt those things in the Commission's report that can be achieved now and put some off for the future. But we all have to look to the future. We have to look at how we maintain the postal system despite the advent of these new means of telecommunications and basic communications by wireless and broadband.

Again, I thank you. I hope we can move forward because I think action by the Senate is necessary now. The House has acted previously, but we have to take this one and look at it real hard and try to achieve something this year if it is at all possible. So I look forward to working with you, Madam Chairman. Thank you very much. Thank you all.

Chairman COLLINS. Thank you.

Senator Carper, it is a pleasure to welcome you to the Committee as well. You have demonstrated a longstanding interest in postal issues and I was pleased to partner with you last year on the legislation dealing with the retirement contributions.

#### **OPENING STATEMENT OF SENATOR CARPER**

Senator CARPER. Thank you, Madam Chairman. It is a privilege to work with you on these issues.

I do not know that we can come close to improving on the great work that Senator Stevens did over three decades ago, but I mentioned in an earlier hearing the old adage of, if it ain't broke, do not fix it. I do not know that that applies here. Not that the postal system is broken, but if it is not perfect, make it better. I think we can make it better. We appreciate really the attitude that you brought to the table today. I regret having missed the earlier panel of witnesses. I expect I will have a chance to talk with my staff and find out in more detail what I did miss.

I would like to ask a couple of questions, if I could. A bunch of the questions that I wanted to ask have been asked. But one of them, however, I want to go back to and ask it again. I ask you

to forgive me if I am being redundant, but one the questions I think you asked, Madam Chairman, when you said, it is all well and good that there are things that you are against, but there are also things that you are for with respect to the Commission's recommendations. I do not want you to go into any great detail but I would like for each of you to really break it into two categories: The things recommended by the Commission that you agree with, just flat-out agree with, and some things that the Commission has recommended that you could perhaps agree with if they were modified. If you could just take it up there.

Mr. Young, we always pick on you first.

Mr. YOUNG. That is all right. The thing that I can agree to and accept is transparency. I think every organization that has a public service should have transparency.

The thing that I would be willing to look at, that is a little bit tougher, Senator. There are a lot of things that are on the edge there. There are things that we could probably take a look at and maybe make a little bit better. But I would answer this question in a kind of a unique way, if you would allow me to. When I first appeared before the commission, and look, I realize my union believes that the Internet has had a serious detrimental effect on First-Class Mail, and my union believes that is going to continue and probably escalate in the years to come. So that makes cost a very important function of this Committee. I understand that and I would not be naive enough to suggest to you that you should ignore that.

But I want to beg that you go beyond just the cost. I am going to give an example, a very recent event. Just last week Brother Holton and I went over to the Postal Service and we witnessed the signing of an agreement between Homeland Security and the Postal Service whereby, God forbid, there would be a biological attack somewhere in this country, voluntarily letter carriers and rural carriers would deliver the medicine to the patrons they represent.

I think the unique kinds of things that we do because of the attachments that we make with those patrons that we deliver to every day are far too often ignored. I told the Commission when I testified before them in their first hearing, think of what would have happened with anthrax if, God forbid, this was a privatized Postal Service and you had all these different companies and you could not contain the threat. I do not mean to demean private workers, but it is not clear to me that these people would be willing to go the extra mile that the men and women that I represent and the rest of these presidents at this table represent, have already demonstrated a willingness to do. These are very courageous public-oriented, public service-oriented employees.

Senator CARPER. Mr. Young, I agree with everything you have just said. But my question was—and it is important that you answer my question. My question was, among the universe of recommendations that this Commission has made, what are several that you agree with? You have mentioned one, transparency.

Mr. YOUNG. You want several?

Senator CARPER. Yes.

Second, cite for us some examples of those areas that you think there might be room for negotiations to find consensus.

Mr. YOUNG. I think there is room for negotiations on the board of governor issue. I think there is room for negotiations on the pay cap, the executive salary pay cap. I think there is room for negotiations on the cost of the military. I think there is room for negotiation on service agreements with the mailers. I think there is room for negotiation on pricing flexibility.

Senator CARPER. That is great. That is exactly what I was looking for. Thanks.

You mentioned the effect that E-mail has had on First-Class Mail delivery. I took a bunch of Boy Scouts from Wilmington, Delaware to Norfolk Naval Station this past week. I am an old Navy guy. We take them about every 3 years. We visited ships and submarines and saw a carrier as well. Met with seamen recruits and chief petty officers and even admirals, and had a chance to—really a real interesting session with a fellow who is the commander of the U.S. submarine forces around the world. He and his wife hosted us for a little reception at, of all places, the Delaware House, where they live on Norfolk Naval Station.

They shared with us what it had been like to have been in the Navy on submarines and with a spouse at home and family and all, and what it is like today. E-mail has come to the Navy in the big way. We have seen a little bit through the Iraqi war how our troops are able to communicate better. Aboard ships the same is true, and whenever sailors have a minute to spare they try to E-mail their families back home and to communicate. You could not do that in the past.

The admiral that we visited with, he and his wife told us how in the early days they were lucky to get two or three messages during a 3-month deployment from their families. The people on the submarines could not send anything out. They could only receive maybe two or three messages in. The message was limited to 20 words. Today they can E-mail their families from the submarines deployed around the world, hundreds of feet below the surface, and communicate with their families throughout the course of the day and the night. So it is a remarkable revolution that we witnessed.

Mr. Holton.

Mr. HOLTON. I believe that the pricing flexibility part is something that is vital and we would be in full support of that. As far as those things that maybe could be supported if it was tweaked or negotiated—and that is the power of the regulator, the way they have set the regulator up. There are a lot of things in there that we do not like, but it could be something that could be worked on and tweaked.

Also, the way the board of governors operates. All of this, the Postal Service in everything that is proposed, needs to have an ability to work as a business even though it is still a government entity. In order to meet some of these things that we are faced with, such as wireless communications, E-mail, those kind of things, we have to be able to operate like a business. Yet managers at Postal Service headquarters, I think, are pretty much micromanaged from those people that are over them, to the point where they are not able to concentrate on the business as much—now this is just my opinion—but as much as they may need to concentrate on running a \$70 billion industry.

So those two things I think could be addressed if they were tweaked, fine-tuned, negotiated in such a way.

Senator CARPER. Thank you, sir. Mr. Burrus, you can repeat any of the ones that have already been mentioned. In fact that would be helpful. Or you can strike out on some new ground.

Mr. BURRUS. The military retirement would be at the top of my list because it is such a large number. But I will repeat some of what has already been said, the rate flexibility, the opportunity to offer volume discounts so they can get away from this charade regarding work-sharing discounts, the ability to add new products and better utilize the network, to borrow, invest, and retain earnings. I think that is important.

The work-sharing discount issue has to be addressed. The Postal Service cannot be successful if it is giving away money. Even if you adopt a good model for the future, and let us assume everything that everybody believes is correct, that technology is going to erode First-Class volume. I dispute that at this point but let us just take that as factual. Even if you adopt a good model, you cannot give money away and be successful in the future. No company can be successful that I am aware of, by giving money away. Those are charities. Those are not businesses.

So I think something has to be done in terms of the cost avoidance. There has to be a standard. The government has adopted a very good standard in terms of contracting, subcontracting. They say, here is the standard, the process that will be applied if you are going to have someone else perform the activity.

The Postal Service has been separate and apart from all those processes, and time after time again they have given money away, hundreds of millions of dollars, and a year later, 2 years later, 5 years later, we made a mistake. Let us recover. Bring it back inside and let postal employees—we can compete very well. We have very experienced, dedicated workers in the Postal Service.

When the private sector can do it better and cheaper than postal employees, I think it is fair game. That the ratepayer is entitled to the best and cheapest service they can receive. But in those circumstances where they are not doing it cheaper, it becomes political cronyism where someone that has promised a future job for someone gets a service, then I think that is wrong to the ratepayer, it is wrong for the Postal Service. So I think that is one of the most important things.

As I said in my testimony, the question of the allocation of the rates is a looming problem for the Postal Service into the future. I think the Senator from Alaska made significant reference to it, the fact that a lot of the volume today—more important than the loss of First-Class Mail is the diversion to standard. The contribution to the institutional cost by the different classes of mail is an issue that is going to be out there for a long time until it is dealt with, with or without reform, because standard mail is a growing volume of the Postal Service, projected to grow by billions of pieces far into the future. That is going to have to be addressed very significantly and seriously. That is not a question of reform. It is a question of how are you going to set your rates.

Senator CARPER. Thank you, Mr. Burrus. Mr. Hegarty.

Mr. HEGARTY. We agree with the Commission to maintain universal service at uniform prices, and oppose privatization. We agree with the Commission that the outmoded and cumbersome rate-making process needs to be changed. We agree that we want to maintain 7-day mail processing and 7-day delivery to every address in the country. Maintain equity with Federal employees on the funding for military retirees and the CSRS. And also, as I mentioned earlier, to allow the Postal Service to offer discounts to its bigger mailers.

As far as negotiating or what we would agree should be talked about, I think within the collective bargaining process we have achieved a very delicate balance with the Postal Service. It has taken 33 years. I think we have seen the progress made over the years, especially in recent years, and that anything that is negotiable now should stay negotiable. I think we have, as I said, been able to negotiate fair contracts that were fair not only for the Postal Service and to our workers but for the American people.

I think locking us into any set of rigid rules, whether it is on collective bargaining, mediation, arbitration, what we can bargain over, what we cannot bargain over I think is a big mistake. I think that is just change for the sake of change and I would caution against that.

Senator CARPER. Good. That was very helpful. Thank you.

One last quick question. I appreciate your willingness to let me have a few extra minutes, Madam Chairman. I am supposed to be co-chairing another meeting in about 2 minutes so I am going to ask you to be real brief and direct in responding to this next question.

As you know, the President's Commission made a number of recommendations dealing with workers compensation costs, and when you look at the number of injuries, the type of injuries and repetition of the injuries, and the costs that grow out of those injuries for the Postal Service and for those of us who use the Postal Service, there is a lot of cost that is tied up there. I was struck in one of our hearings when we heard that a number of people who are hurt on the job and begin drawing workers compensation continue to do that not only through their normal working life but well beyond that into their seventies, eighties, even nineties, which seemed peculiar to me. I am going to ask you to be real short in responding to this question, but are we doing enough to curtail injuries? If you can give me maybe one real good idea for what further we can do to reduce the incidence of injuries.

And maybe a second idea as to what we can do beyond curtailing the incidents to hold down the cost that grow out of workers comp. Mr. Hegarty, do you want to go first? Again, I would ask you to be brief.

Mr. HEGARTY. Sure. I appreciate you bringing this up. President Bush has sent a memo to Secretary Elaine Chao to ask her to reduce workplace injuries in the Federal sector and I definitely agree that prevention is the first key to reducing cost. I do not think we should be penalizing employees who through no fault of their own are hurt on the job and then suffer a loss of income as a result, because they are not getting their full salary, they are not allowed to work overtime. Under FERS they are not allowed to make con-

tributions to the Thrift Savings Plan, which is a serious detriment to their future income.

But as far as are we doing enough, I think we are making progress. The American Postal Workers Union, the National Postal Mail Handlers Union, OSHA and the Postal Service partnered last April on an ergonomic risk reduction project which we have rolled out nationwide. We are training site by site now to reduce musculoskeletal injuries and repetitive motion injuries of our people in the field. I think ergonomics is probably one of the best fixes that we could put in place to eliminate workplace injuries.

The other thing that the Postal Service has done is partnering with OSHA in getting special status on sites for safe workplaces and we are working with them on that as well.

Senator CARPER. Thanks. Mr. Burrus, again, briefly.

Mr. BURRUS. We are not doing enough. We have had several directions towards reducing workplace injuries for a 20-year period. It was attempted to discipline their way out of injuries. That every employee that reported an injury was faced with disciplinary action, and that was the wrong approach. We are now coming back to the other side of trying to find a cooperative approach. Our union stands willing at every opportunity to do all that we can in concert with the employer to ensure that employees do not become injured.

The approach of looking at employees that are already injured and say, are they costing the service money? Do employees continue on injury compensation because it is in their own interest up to the age of 100 and 105, and how much it is costing the system, I think that is the wrong approach. I think we ought to look at what is causing the injuries. Are employees knowledgeable of how to prevent them as best they can. And in those circumstances where they cannot avoid the injury or something occurs that no matter our best effort employees are injured, then we ought to have a joint approach of making sure the employee gets the benefit of all of the rights and privileges available to them without being personally penalized.

Senator CARPER. Thank you. Mr. Holton, a brief comment, please.

Mr. HOLTON. I think we are working toward doing as much as we can to improve safety and job-related injuries. I think sometimes though it boils down to money and I will give you an example.

John just told you about the OSHA ergonomic study that these two and the Postal Service have partnered in. Then when it came time, I believe they were talking with NALC as well as myself about expanding the program to include our delivery people, it got to a point where there were no resources left to expand it. So in that sense we kind of got left out and it is on hold.

But then again, we are also working—we have established a national task force, safety task force with the Postal Service and our union in which we are looking for ways to reduce auto accidents, because rural carriers drive three million miles a day. We are exposed out there on the highways in bad weather and a lot of places. And one of the biggest problems we have is pulling out and not knowing that something is in a blind spot. So the Postal Service

has contracted with MIT to look at finding some type of sensor that we can mount on our car so that as we get ready to pull away from a mailbox, it looks behind for us and alerts the driver if something is there. Now whether that can work or not and can be made into a device that is affordable, but still it is something that we are working toward.

Also John talked about quality of work life. We have a quality of work life process also and we continuously address safety issues through that process to come up with things that would reduce potential for injury. But it is still, I mean, when you have one employee death or the number of injuries that we have, it is still too many. So I am sure that there always can be a case made to do more.

Senator CARPER. Good.

Mr. Young, I am going to ask you to just maybe in 30 seconds, if you could finish.

Mr. YOUNG. I will try very hard.

Senator CARPER. Then you can expand on that in writing.

Mr. YOUNG. It may not be necessary. The job of delivering mail in the weather, in the neighborhoods that we deliver is a dangerous job. We do what we can to see that the injuries are reduced. I do not know if there is any way you can help us there, which is probably going to drive us to look at the costs, even though we do not want to, that you are talking about.

I think, Senator, the idea of the workers comp cost and what happens when somebody retires should be discussed and debated. There are issues on both sides. I am willing to address that dialogue at the appropriate time.

Senator CARPER. Thanks.

Madam Chairman, I appreciate very much your generous allocation of time here for these questions. Gentlemen, thank you all for coming here and for the spirit that you bring to today's hearing. Looking out in the audience, Madam Chairman, I see an old colleague that I served with in the House of Representative, Congressman Bill Clay. It is always good to see you, Bill.

Madam Chairman, I would ask unanimous consent to have my statement entered into the record at the appropriate place. Thank you so much.

[The prepared opening statement of Senator Carper follows:]

#### PREPARED OPENING STATEMENT OF SENATOR CARPER

Thank you, Madam Chairman.

I'm pleased that we will be hearing testimony today from OPM and the four major postal unions on the workforce recommendations made by the President's Postal Commission last summer.

As I mentioned at our last hearing, these recommendations have received quite a bit of attention since their release. They are probably among the most controversial made by the commission. I won't go into detail again about my concerns with them, but I will briefly touch on one subject I addressed last time.

I've said in the past that I don't think the evidence is there to prove that postal employees are overpaid. I'm also reluctant to tinker with a collective bargaining process at the Postal Service that has worked well, especially in recent years. However, I wouldn't say that the current system is perfect. There is certainly always room for improvement.

I get the impression, Madam Chair, that the Postal Service has a pretty good relationship with its employees right now. It's something I know they've worked hard



on in recent years. That good relationship is in large part the reason why we've had three out of four major postal unions recently agree to modest contract extensions.

That said, the current leadership at the unions and the Postal Service will not be around forever. I think it is important, then, that the Postal Service take full advantage of the once-in-a-generation opportunity that postal reform offers. I believe it is important that they sit down with their employees to see if there are any changes that need to be made to the current system to ensure that the labor peace we have seen in recent years lasts for as long as possible.

I'm not sure that the Commission's workforce recommendations are the right approach, but I am certain that there are reforms out there that could make a decent system better. The best reforms, however, will be the ones that management and labor can agree to jointly.

Chairman COLLINS. Without objection. Thank you, Senator.

I want to thank all of our witnesses today, both from OPM and the distinguished presidents of the four major postal unions. We very much appreciate your being with us today. Each of us shares a common goal, and that is we each want to make sure that the Postal Service continues to provide universal service to all Americans at affordable rates.

We also are grateful for the work that your union members do each and every day. Mr. Young, I am pleased that you reminded us, and Mr. Holton reminded us not only of the service provided and the Heroes Awards, but also of the recent agreement between the Postal Service and the Department of Homeland Security. I think that agreement is indicative of the service commitment, the willingness to go the extra mile of your members.

So I very much appreciate your contributions to this debate. I hope we can work very closely in drafting legislation. I realize these issues are difficult. We may not see eye to eye on all of them but I want you to know that your contributions and input are always valued here. So thank you for your testimony today and for being with us.

Today's hearing was the fourth in a series of hearings. I am committed to making sure that we hear a wide variety of views as we go forward and that we have the benefit of as much expertise as possible as we tackle this very complex issue. I will keep the record open for 15 days for the submission of any additional materials that our witnesses or our Members may have.

This hearing is now adjourned.

[Whereupon, at 12:22 p.m., the Committee was adjourned.]



## A P P E N D I X

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### PREPARED STATEMENT OF SENATOR LAUTENBERG

Postal reform is an important national issue, but most Americans spend little time thinking about it because they take postal service and the employees who provide it for granted.

The importance of the U.S. Postal Service (USPS) to our national economy cannot be overstated. I'll give you one example: A 2-year delay in postal rate increases has the potential to save publication companies like AOL-Time Warner approximately \$200 million in mailing costs.

Last year alone, the USPS delivered more than 200 billion pieces of mail. So the important role the Postal Service plays in our economy and the contribution of its 843,000 dedicated employees should not be overlooked or taken for granted.

Having said that, this is indeed a time of great change for the Postal Service. As the President's Commission has observed, "traditional mail streams will likely continue to migrate to cheaper Internet-based alternatives." And given the existing regulatory structure, the Postal Service's debt is likely to increase every year, making it tougher for the Postal Service to achieve its fundamental mission of universal service.

I support the Commission's recommendation to make the rate-setting process less cumbersome and more efficient.

But I must take issue with many of the Commission's labor reform proposals.

As a former businessman, I understand the need to make a workforce as lean and efficient as possible. But limiting employees' collective bargaining rights and attempting to depress workers' wages while increasing executive compensation will not solve the Postal Service's organizational and workplace problems. Such "solutions" are likely to make things worse.

Instead, I think we should take full advantage of the opportunity that work force attrition will present to us in the years ahead. Forty-seven percent of existing Postal Service employees—about 347,000 individuals—will be eligible for retirement by 2010.

I look forward to hearing from our witnesses about this idea and other postal reforms.

Thank you, Madam Chairman.



National Association of Postmasters  
of the United States

Testimony of  
Walter M. Olihovik  
National President

Before the

Senate Committee on Governmental Affairs

February 4, 2004

Thank you Madame Chairman and members of the Committee; I am Wally Olihovik, President of the National Association of Postmasters of the United States (NAPUS). On behalf of the 42,000 NAPUS members, thank you for inviting me to share my views with the Committee on workforce issues and postal infrastructure.

As Members of this Committee know, NAPUS does not merely represent the interests of our nation's 27,000 postmasters. For well over 100 years, NAPUS has advanced the quality of postal services to our countless customers, whether they reside and work in our largest cities, or our smallest towns. Postmasters know the extraordinary financial and operational challenges that will continue to defy efforts to safeguard an affordable and universal postal service. The postmaster, the manager-in-charge of the post office, is on the front line of the battle six days a week to ensure that postal quality is never compromised by the strains that have stretched the Postal Service beyond its limits.

NAPUS looks upon the members of this Committee as loyal allies in the effort to ensure the success of the Postal Service. On behalf of my members, I wish to express my profound appreciation to you Madame Chairman, Senator Akaka, and this entire Committee for its strong support of the Postmaster's Equity Act, Public Law 108-86. Historically, this Committee and its predecessors have been steadfast partners with postmasters. NAPUS looks forward to further this continued close relationship.

Approximately, three years ago, former Committee Chairman Fred Thompson compared the Postal Service to "an ox in a ditch – big time!" Since that May 2001 Senate

Oversight hearing, the long-term financial outlook for the Postal Service has not changed for the better. Growing electronic diversion, keen competition and lingering economic uncertainty continue to chip away at Postal revenue. For this reason, NAPUS is committed to working with this Committee to enact responsible postal reform legislation that would ensure the continued vitality of the Postal Service.

Last year, NAPUS applauded the Chairman's legislation that called for a Presidential Commission on the future of the Postal Service. NAPUS was pleased that the White House responded to the Chairman's call. The Commission's diligence and openness in its deliberations also pleased us. Moreover, NAPUS was encouraged by many – though not every one – of its recommendations. NAPUS was honored to actively participate in the Commission process, and we continue to partake in this winding legislative itinerary, both here on Capitol Hill and at the White House. We are cautiously optimistic that your active stewardship of Postal legislation, combined with the hard work of your colleagues across the Capitol, and with the aggressive support of the White House will yield a well-constructed postal reform act. Madame Chair, there are those in the postal community who believe, incorrectly, that postal reform is unnecessary. NAPUS disagrees with that view.

As you know, this Committee assisted the Postal Service, if only temporarily, by passing Public Law 108-18. The Civil Service Retirement System recalculation legislation provided a short reprieve. It was not a permanent solution. As part of your efforts to reform the Postal Service, Congress needs to revisit the pension issue in order to reverse

the decision to shift the military retirement liability onto the Postal Service. In addition, remedial legislation is warranted to permit the Postal Service to use the escrow that will accrue as the result of the CSRS recalculation. The military retirement modification shifted a \$27 billion obligation from the federal government to the Postal Service. The President's Postal Commission recommended that this obligation return to the government. The Postal Service could use these much-needed funds to pre-fund retiree health obligations. Eliminating the escrow account would reduce the need for a postage rate spike in 2006. NAPUS also believes that such funds could be invested in postal infrastructure that has been ignored for some time. It is important to repeat the fact that corrective CSRS legislation will not in and of itself provide the Postal Service with long-term relief. Over the last two years, the Postal Service has successfully reduced costs to balance shrinking revenue. This has resulted in more optimistic than anticipated bottom lines. However, the Postal Service cannot continue to chip away at costs without influencing the quality of mail service that Americans expect and demand. Rather, we need the tools and flexibility that are essential to grow revenue. A more comprehensive approach is necessary which addresses the operational, regulatory, and financial needs of the Postal Service.

This Committee is familiar with the alarm sounded by many in the Postal community, as well as the General Accounting Office, about the fiscal condition of the Postal Service. President Bush has also expressed profound concern about the falling volume of first-class mail and the revenue derived from the product. In a large part, first-class mail

supports the postal infrastructure – the network that is the essential ingredient in providing universal postal service.

Just two months ago, President Bush urged Congress to enact postal reform legislation. He announced five guiding principles that should embody postal reform: implement the best practices; enhance transparency; provide for greater operating flexibility; foster more accountability; and ensure self-sufficiency. The basic and uncontested mission of the United States Postal Service is that every mailer and mail recipient in this country has access to an affordable and universal postal network. President Bush prefaced his announced “Principles for Postal Reform,” by stating that comprehensive postal reform must “ensure that the United States Postal Service can continue to provide affordable and reliable universal service...” For NAPUS, universality and reliability are paramount as this Committee pursues much-needed reform of the Postal Service.

It is immaterial whether the postal customer resides or works in a rural, urban, or suburban setting. All communities are entitled to high quality mail services. Indeed, Congress is the Constitutional guarantor of this right pursuant to Article 2, Section 8 of the U.S. Constitution by “establishing Post Offices and post roads.” Congress emphasized its strong interest in protecting universal postal access through the Postal Reorganization Act of 1970 stating, “No small post office shall be closed solely for operating at a deficit.” The reason that Congress provided thirty-four years ago is still a valid one: “the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.”



Last July, the President's Commission on the Postal Service made a number of recommendations relevant to postal infrastructure. One of the noteworthy Commission conclusions was that any post office necessary for the furtherance of universal service should not be closed solely because it is unprofitable. Closing small post offices would be a dreadful and misguided strategy. Such actions would have a devastating effect on many communities, yet have little impact on postal finances. As Robert Cohen of the Postal Rate Commission testified before the Presidential Commission, closing the 10,000 smallest post offices would only net savings of about \$567 million – considerably less than 1 percent of the Postal Service's operating budget. The postal network is not merely the sum of its parts; it is an integrated system, which relies even on its smallest components.

The growing number of delivery points, approximately 1.7 million per year, cries out for more post offices that are strategically located to help guarantee the reliability and universality that are the essential to a viable Postal Service. Americans expect access to a full service post office. The Postal Service's own Transformation Plan recognized this reality. Despite the fact that 70 percent of postal customers were aware that postal products might have been available elsewhere, 80 percent of stamp sales continue to take place at the post office. Moreover, the President's postal panel commissioned a poll, which found that 72 percent of those surveyed were either extremely satisfied or quite satisfied with service provided by their local post office.

Although the Commission expressed concern about post office protection through the Congressional Appropriations process, it did not reject the due process rights that are afforded to communities impacted by potential post office closures or consolidations. Section 404 of Title 39 codifies this appeal right. In addition, the Commission rejected profitability as the yardstick for possible closure.

NAPUS has worked with communities in safeguarding their legal rights to protect their local post office. Many years ago, NAPUS created the Post Office Closing and Consolidation Committee, which monitors Postal Service proposals to close post offices and ensures that appropriate local officials understand their rights under the law. As part of this effort, NAPUS publishes and circulates *The Red Book: a NAPUS Action Guide for Preventing the Closing and Consolidation of Your Post Office*. In addition, NAPUS has worked closely with the Congressional Rural Caucus to safeguard a community's due process rights.

NAPUS believes that post offices should not be viewed as independent profit or cost centers. In fact, Postal Service documents that list those post offices with expenses greater than revenue include a cautionary note for interpreting the data. The note highlights the fact that "significant amounts of revenue are not reallocated to post offices." Moreover, the agency recognizes that different post offices perform different functions that affect their revenue. Some post offices are "authorized to collect cash and to post revenue, while others are authorized to do work but not to collect cash." Post offices provide exceptional value to mail products, including essential mail security

through secure post office boxes at convenient locations staffed by qualified, trustworthy, knowledgeable, reliable, and accountable postal personnel.

Postmasters fully recognize and embrace the principle that a postmaster must be accountable. In fact, accountability was an underlying theme of the President's Commission findings. However, daily teleconferencing with middle postal management is not accountability. Unfortunately, all too often this is used as a form of micro-management. Postmasters cannot be accountable to everyone at every level of the Postal bureaucracy. Therefore, NAPUS was pleased that the President's Commission embraced our recommendation that the Postal Service must "focus on removing layers of managerial bureaucracy with an eye towards simplicity and downward delegation." We hope that Postal Headquarters will apply this suggestion without further delay. Furthermore, the Commission questioned the need for the swollen number of Postal areas and districts, and the lack of standardization and consistency among these administrative units. This meritorious idea should also be implemented.

Indeed, the ability to reach postal excellence relies on the availability of appropriate and fair incentives. The Postal Service recently implemented a new "pay-for-performance" system to replace the controversial EVA program. The new pay system is still a work in progress and we are carefully monitoring its development. The key ingredients to its success are upfront, well-planned incentives and performance goals, good communications, and legitimacy. Three components comprise the performance aspect of the new pay system. The combination of reaching corporate and unit goals make up 80

percent of the performance incentive. Meeting the “core requirements” of the job covers the remaining 20 percent of the incentive. The link between performance incentives and achieving corporate goals reflects a strategy employed by the private sector. The merit increase would be rolled into the employee’s base-salary, which has positive implications for retirement and future pay adjustments.

Although I am cautiously optimistic about the success for the new pay system, I strongly feel that the Postal Service must do a much better job in defining for those who will actually evaluate postmasters the “core requirements.” Many postmasters throughout the country have communicated to me their concerns about the implementation of the pay system for the reason that Postal District officials are not sufficiently equipped and trained to implement the system. Make no doubt about it. NAPUS fully supports a fair pay-for-performance system. However, what looks good on paper maybe challenging in practice. There is no substitute for communication and collaboration.

The agency’s difficulty in communicating the system to its own managers concerns me, and should the Postal Headquarters itself. Good communications within the postal management structure on implementing the performance-based pay system will play a major in role in future discussions between postmasters and Headquarters over the possibility of “pay-banding” for postal managers.

It is important to note that it is difficult to manage a postal facility when performance incentives are inconsistent. The managerial force is compensated using a system that

rewards performance. The current salary structure for craft employees insulates them from performance. Students of modern management recognize the concept of deviation in workplace performance. Different employees, as the result of different skills and aptitudes, function differently. Unless we are somehow able, through collective bargaining, to create a pay plan that rewards individual or unit achievement, we will miss a crucial opportunity to optimize efficiencies and encourage exemplary performance. In sum, the present pay system compromises the workplace by rewarding and potentially penalizing one set of employees, yet insulating another. This phenomenon adversely affects morale and performance.

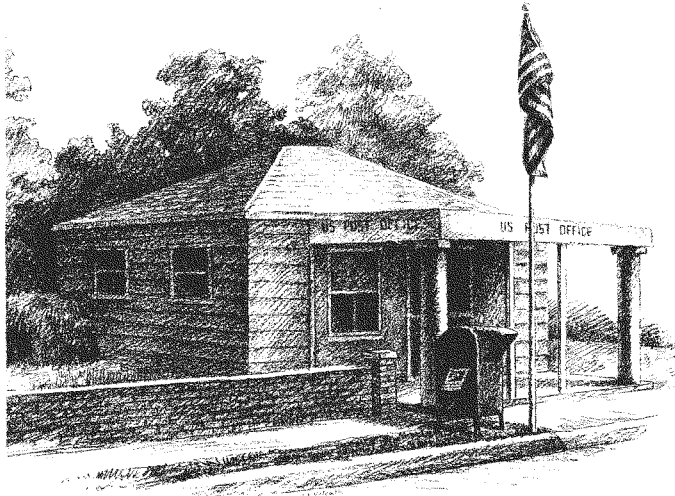
We also need to do better job with our unions to train employees to perform different tasks within the post offices. This would enable the offices to be more nimble and to adapt successfully to customer needs. We should work with the crafts to lower or eliminate the barriers that preclude postmasters from assigning personnel different duties within a post office. If long lines are developing in a postal lobby, the postmaster should be able to reassign temporarily an employee from sorting mail in the backroom to working a retail window. Postal employees should have the flexibility and training to cross over and perform a variety of tasks. I would also suggest that cross training improves job security for those employees whose skills could become obsolete.

Finally, NAPUS remains extremely concerned about the Presidential Commission suggestion to "sunset" Federal Employees Health Benefits Program and Federal Employee Retirement System coverage of postal employees. The proposal would subject

health and retirement benefits to collective bargaining. My concerns are: one, the proposal does not address the process by which postal managers would earn their benefits. Two, the proposal does not address the impact upon current and future postal retirees. Three, it is unclear how existing and prospective postal liabilities and assets within the FEHBP Trust Fund would be treated. And, fourth, the proposal ignores the effect that separating postal employees from the health and retirement programs would have on the entire federal workforce and its retirees.

Madame Chairman, this concludes my remarks. I look forward to working with you and other Members of the Committee as we strive to ensure that Postal Service will thrive for many years to come.

The  
**RED**  
Book



## a NAPUS Action Guide

for preventing the  
closing or consolidation  
of your post office

## ■ PURPOSE ■

**T**he purpose of this guide is to provide the information necessary in the event a post office comes under consideration for closing or consolidation. The guide is designed to help prevent the *arbitrary* closing or consolidation of any post office.

Title 39, *United States Code*, Section 404(b), is the law of the land in regard to the closing and consolidation of post offices. Regulations outlined in Sections 123.6 and 123.7, of the *Postal Operations Manual*, U.S. Postal Service, also apply. It is vital that those who will be involved in helping prevent post office closings and, possibly, later appeals, be very familiar with both the *U.S. Code* and the USPS regulations.

We cannot emphasize too strongly that the protections afforded by these laws and regulations are of no value if they are not put to proper use. The entire NAPUS organization is available to you for assistance. Please let us know your needs.

Those who would privatize the United States Postal Service remain our biggest threat with respect to wholesale closings. It is important, therefore, that we be on the alert to possible actions by the USPS to close or consolidate our post offices.

### PREFACE

#### From the Official Constitution of the National Association of Postmasters of the United States

##### Article II Purposes

*Section 1.* The primary purposes of this organization shall be as follows: To provide the best interests of the U.S. Postal Service; to foster a favorable image of public service; to assure the users of the mails the best service possible; to cooperate with other groups and levels of postal management in the achievement of common goals, and to cultivate the welfare and enhance the happiness of its members.

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12/97



## GENERAL PROCEDURES

The following are some of the more important aspects of the laws and regulations governing the closing or consolidation of post offices.

1. A decision to discontinue or suspend services of a post office must address each of the following matters:
  - (a) responsiveness to community postal needs;
  - (b) effect on the community;
  - (c) effect on the employees;
  - (d) an analysis of the economic savings to the Postal Service;
  - (e) other factors, and
  - (f) a summary that explains why the proposed action is necessary (*POM*, 123.634, *a through f*).
2. The time frame (*POM*, 123.612) calls for a 60-day period for public comment after the release of the proposal to close. After comments are received and the

Postal Service decides to proceed, the proposal is sent through channels to the Chief Marketing Officer and Senior Vice President.

If the closing or suspension is approved at Headquarters, the district manager will post such final notice in the affected post office. No office can be closed sooner than 60 days after this posting. The law then provides a very important 30 days for appeals by the customers to the Postal Rate Commission (PRC). The PRC then has 120 days for review.

3. *An active postmaster, being part of management, must be careful not to take an open and active stand against a post office closing.* It is fine to know what to do and to answer questions from the public. It would be quite another thing to become so active in the matter as to put yourself in jeopardy. Good judgment must rule.

## SUGGESTIONS FOR ACTION BY CUSTOMERS OF POST OFFICES

1. Organization of your effort is vital to any cause. This will allow you to share common information and purpose.
2. Circulate a petition to keep the post office open with a postmaster as the local manager (*see sample petition on page 5—Ed*).
3. It should be considered whether an attorney is to be retained, and if so, how the cost will be handled.
4. The Postal Service will probably distribute questionnaires to those affected in the community. The local group should be ready for this and see that the proper replies are made. Replies should address, as appropriate, the five factors as prescribed by law that the Postal Service must follow in making a determination to close or consolidate (*Title 39, United States Code, Section 404(b)*).
5. It is important to schedule a public organizational meeting prior to the postal-sponsored meeting, preferably the same day or night, an hour or so before the postal meeting. This overcomes the difficulty of getting citizens out to two meetings on different days.
- Invite retired postmasters of the NAPUS closing prevention committee to the meeting to explain the consequences of the proposed closing, inform the citizens of their rights under law to protest the closing or consolida-

tion and answer any questions that may be asked. Also, this meeting will allow the citizens to appoint several good speakers to make their protests at the postal hearing, thus averting contradictions among those in attendance.

Planning should include consideration of retaining an attorney and means for paying for such legal aid, identifying an individual who can videotape the entire procedure of the postal-sponsored meeting and appointing someone to record all the procedures of the postal meeting, as well as recording the names and titles of the postal officials conducting the meeting. Seek out local television and radio coverage of the postal-sponsored meeting and invite your U.S. senators and representative, or their designees, to attend.

6. An amendment to Title 39 went into effect March 6, 1977, requiring a public hearing if an office is scheduled for closing. When public hearings are conducted, see to it that a good group is present and prepared with proper comments and questions. If an attorney has been retained, he or she should attend the meeting.

7. Get the story of the proposed post office closing to the area newspapers, radio and TV stations. Their assistance and understanding can be very helpful.

(continued)

## SUGGESTIONS FOR ACTION BY CUSTOMERS OF POST OFFICES

- continued -

8. Your contacts with senators and representatives are vital in these situations—write, call or personally visit with them.

9. Influential persons in the community and area should contact appropriate Postal Service managers, state legislators, judges, lawyers, ministers, businesspersons and others as necessary.

10. Since many requirements of the law must be met by the Postal Service, a diary of all activities should be kept, with as many specifics as possible. This may be very important to your efforts, should an appeal be made to the Postal Rate Commission.

11. An appeal against a proposed closing (see "Role of the Postal Rate Commission," page 15) should be mailed to the PRC early enough to ensure it reaches Washington, DC, within 30 days from the date the Postal Service posted its final determination. The address of the PRC is:

OFFICE OF THE SECRETARY  
POSTAL RATE COMMISSION

1333 H STREET NW SUITE 300  
WASHINGTON, DC 20268-0001

The Postal Rate Commission will also furnish detailed information regarding the filing of briefs.

The National Association of Postmasters of the United States (NAPUS) is headquartered at 8 Herbert Street, Alexandria, VA 22305-2600; (703) 683-9027. NAPUS is prepared to provide helpful information to local citizens, and has a nationwide network of retired postmasters ready and willing to provide assistance. A phone call will bring an immediate response by a retired NAPUS postmaster in your area who can help in this matter.

Remember, only the customers of a targeted post office may work to prevent its closing or consolidation. Active postmasters and postal employees are *prohibited* from activity in this area. NAPUS will provide all the information on steps you may take, but the final responsibility rests with the local citizens.

■ SUGGESTED FLYER TO ISSUE TO CUSTOMERS OF A POST OFFICE TARGETED FOR CLOSING OR CONSOLIDATION.

### Attention Postal Customers of (insert name) Post Office:

The Postal Service has issued notice that the (insert name) Post Office will likely be (closed or consolidated) in the next 120 days, pursuant to provisions of the Postal Reorganization Act of 1970 and federal law.

The procedure allows customers a 60-day period from the date of the initial notice to evaluate the proposal and offer comments. Thereafter, the Postal Service has another 60 days in which to make a final determination on the proposal.

Local customers of the (insert name) Post Office must take immediate action if the present status of our post office, a U.S. post office operated by career postal employees, is to be retained.

The Postal Service must schedule a public meeting to explain its proposal and to hear comments from postal customers. When this meeting is scheduled, we must be organized to voice our disapproval of any proposal for a contract community post office, rural delivery or consolidation as a branch or station of another post office.

Written protests against the closing or consolidation of our post office should be sent immediately to the district manager, Customer Service and Sales, at (insert address).

We also must:

- notify and seek the assistance of our area's news media (newspapers, radio, television) in presenting our side of the story to the public;
- immediately alert our congressional delegation, and state, city and county officials of the proposal, and seek their support in retaining our post office in its present status.

• immediately circulate a petition among all customers of our post office protesting the proposal and supporting the present status of our post office.

By all means, do not accept anything less than the present status of your post office. Do not accept a contract community post office, rural delivery or consolidation with another post office. Once you do, you forfeit any further recourse to the protection offered by the Postal Reorganization Act of 1970.

■ SUGGESTED NEWS ARTICLE FOR CITIZENS TO SUPPLY TO LOCAL MEDIA IN A COMMUNITY WHERE A CLOSING OR CONSOLIDATION OF A POST OFFICE IS BEING PROPOSED BY THE U.S. POSTAL SERVICE.

The United States Postal Service, in a notice posted in *(insert name)* Post Office and a form letter to customers proposes to *(close or consolidate)* the post office.

This is the first step, under law, that the U.S. Postal Service must take prior to closing or consolidating a post office. This notice must be given 60 days prior to a final decision on the matter to allow time for local customers of the post office to evaluate the proposal and offer comments. This is a stipulation of the Postal Reorganization Act of 1970, and of Title 39, U.S. Code, Section 404(b).

Postal officials are required by law to schedule a public meeting with customers of any post office proposed for closing or consolidation. Locally, this meeting is scheduled for *(insert date and time)* at *(insert location)*. Written comments may also be submitted to the local district office of the U.S. Postal Service, located at *(insert address)*.

Local citizens served by the *(insert name)* Post Office should seriously consider the consequences of the U.S. Postal Service's proposal and be prepared to voice their concerns at the *(insert date)* meeting. Only the citizens of the community may take action to prevent the closing or consolidation of their post office, and prevent service from being transferred to a contract community post office or station and/or rural or cluster box delivery.

To preserve their post office as it now exists—a regular United States post office operated by career postal employees—local citizens must speak up now.

In addition to the 60-day period provided by law for customer comments, the law also provides appeal rights for local citizens if the final decision is in favor of closing or consolidation. The appeal from local citizens must be in the hands of the Postal Rate Commission in Washington, DC, within 30 days after the U.S. Postal Service's written determination for closing or consolidation.

Local citizens should take notice that once the *(insert name)* Post Office has been closed or contracted out, there is very little possibility of it ever returning to its present status.

■ SAMPLE PETITION TO BE SIGNED BY ALL CUSTOMERS OF THE POST OFFICE TARGETED FOR CLOSING OR CONSOLIDATION.

*(insert name)*  
DISTRICT MANAGER,  
CUSTOMER SERVICE AND SALES  
UNITED STATES POSTAL SERVICE  
*(insert city, state, ZIP Code)*

We, the citizens and customers of the *(insert name)* Post Office hereby protest any change in the present status of our post office.

It is our desire to retain our post office at its present status—a United States post office operated by a postmaster and career postal employees.

We have many concerns, among them the sanctity of the mail and the inconvenience your proposal presents to us in delivering and sending the mail, particularly accountable mail. We are especially concerned over what effect your proposed action would have regarding the purchase of postal money orders. We are also well aware of the documented abuses possible through a contract mail station.

The Postal Reorganization Act of 1970 calls for providing a maximum degree of effective and regular postal service to rural areas, communities and small towns where post offices are not financially self-sustaining.

We do not feel your proposals meet these criteria.

Sincerely,  
Customers of the *(insert name)* Post Office:

*(Leave ample space for customers of the post office to sign their names and provide their mailing addresses. They should also write the date they sign the petition. Be certain that you keep a duplicate copy of the petition.)*

■ SUGGESTED LETTER TO CONGRESSIONAL DELEGATION TO BE SENT IMMEDIATELY UPON RECEIPT OF THE FIRST NOTICE OF ANY PROPOSED CLOSING OR CONSOLIDATION.

(insert date)

SENATOR (insert name)	or	REPRESENTATIVE (insert name)
SENATE OFFICE BUILDING		HOUSE OFFICE BUILDING
WASHINGTON, DC 20510-0001		WASHINGTON, DC 20515-0001

Dear Senator (or Representative) (insert name):

The U.S. Postal Service has served notice to the customers of the (insert name) Post Office of a proposal to (close or consolidate) the post office. It is doing so under provisions of the Postal Reorganization Act of 1970 and federal law, and over our objections.

Under provisions of the act, the Postal Service is obligated to provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where post offices are not self-sustaining. The Postal Service's proposed action will not serve the best interests of our postal customers.

(If the proposal is for a contract community post office, use the following:)

The Postal Service is proposing a contract community post office to replace our present regular post office. We have concerns regarding the sanctity of the mail under this situation. Also, contract post offices may be sub-leased and operated by unqualified clerks who have never taken a postal exam for the post office.

Once a contract post office replaces a regular post office, we are no longer protected by provisions of the Postal Reorganization Act. Termination of the contract by either party for cause leaves us at the mercy of the Postal Service. The Postal Service is free to provide whatever type of service it deems advisable, with no recourse available to us.

(If the proposal is for rural or cluster box delivery, use the following:)

The Postal Service has made a decision to close our post office and provide us with rural delivery. We do not feel we will be getting the maximum service the Postal Reorganization Act calls for with this type of service. Inconvenience in purchasing stamps and money orders, and in sending accountable mail, such as a certified letter, are among the problems we

foresee. The same holds true for the receipt of accountable mail.

Invariably, we will be left with a pick-up notice that will require a (insert distance)-mile trip to the post office at the neighboring town for pickup. We also have concerns regarding the sanctity of the mail with non-career carriers and the loss of identity for our community.

(If the proposal is for consolidation with a neighboring post office, use the following:)

The Postal Service is proposing the consolidation of our post office with the (insert name) Post Office. Postal officials point to this as a money-saving move, a contention that we dispute. We protest the loss of our postmaster and community identity. Someone will still have to staff the office if it's consolidated with the (insert name) Post Office. There are no savings in this situation.

A higher-level clerk in charge will command as much in salary as our postmaster. With our own postmaster, we have someone to hear our problems, and take our complaints and compliments, rather than our being referred to an individual at the (insert name) Post Office.

(Use the following closing paragraph in all instances:)

We appreciate your consideration of our position and encourage you or a representative to attend a public meeting the Postal Service has scheduled for our community on (insert date and time) at (insert place). We appreciate any support you can give us in our fight to retain our post office in the same status as now exists—a U.S. post office operated by a postmaster and career postal employees.

Thank you.

Sincerely,

(Secure signatures of as many postal customers as possible in the community—Ed.)

- SUGGESTED LETTER TO POSTAL RATE COMMISSION ONCE POSTAL SERVICE SERVES NOTICE THAT A FINAL DECISION HAS BEEN MADE TO CLOSE OR CONSOLIDATE A POST OFFICE. (MUST BE IN THE HANDS OF THE COMMISSION NOT LATER THAN 30 DAYS AFTER THE DECISION HAS BEEN POSTED BY THE POSTAL SERVICE.)

(insert date)

POSTAL RATE COMMISSION  
1333 H STREET NW, SUITE 300  
WASHINGTON, DC 20268-0001

The Postal Service has informed us of a decision to (*close or consolidate*) our post office by (*insert date*). This action is being taken after meeting the provisions of the Postal Reorganization Act of 1970, and over our protestations.

We, the customers of the (*insert name*) Post Office, vigorously protest this action, in view of the provision in the Postal Reorganization Act that calls for the Postal Service to provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where the post office is not self-sustaining.

(If the decision is to close and offer rural delivery, use the following:)

The Postal Service's decision to close our post office and provide rural delivery service raises questions concerning the sanctity of the mail and the risks involved in the handling of mail by non-career employees. We also foresee inconveniences in purchasing money orders and stamps, and sending accountable mail. We have the same concerns regarding the receipt of accountable mail, such as certified letters, registered letters and CODs.

(If the decision is to contract through a community post office, use the following:)

The Postal Service's decision to convert our post office to a contract community post office raises questions concerning the sanctity of the mail and the risks involved in the handling of mail by non-career employees. We also know that the lessee can sub-lease the contract and hire substandard help, and that the contract can be terminated with cause by either party.

We know that, once we are deprived of our present post office, we no longer come under the protection of the Postal Reorganization Act and are

at the mercy of the Postal Service.

(Should the decision be to consolidate with a neighboring post office, use the following:)

The Postal Service's decision to consolidate our post office with the (*insert name*) Post Office is being done over our objections. This will mean the loss of our identity as a community. We will not have a postmaster to whom we can take our problems, complaints and compliments. We will be directed to a distant postmaster in the home office of our station.

We cannot see any savings to the Postal Service under this arrangement. The clerk in charge of the station will be earning as much as our postmaster and, more than likely, will not be a resident of our community.

(Use this last paragraph in all cases listed above:)

We feel that, as citizens of the United States, we are entitled to the same efficient postal service provided to our counterparts in urban areas. The Postal Reorganization Act is explicit in pointing this out. We petition you, as members of the Postal Rate Commission, to respectfully consider our protest and order the Postal Service to give additional considerations to our service needs.

Respectfully,

(Secure signatures of as many postal customers as possible in the community—Ed.)

**PROVISIONS OF THE POSTAL REORGANIZATION ACT CONCERNING  
POST OFFICE CLOSINGS AND CONSOLIDATIONS**

**Title 39, United States Code, §404, Specific Powers**

(a) Without limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others:

(1) to provide for the collection, handling, transportation, delivery, forwarding, returning and holding of mail, and for the disposition of undeliverable mail;

(2) to prescribe, in accordance with this title, the amount of postage and the manner in which it is to be paid;

(3) to determine the need for post offices, postal and training facilities and equipment, and to provide such offices, facilities and equipment, as it determines are needed;

(4) to provide and sell postage stamps and other stamped paper, cards and envelopes, and to provide such other evidences of payment of postage and fees as may be necessary or desirable;

(5) to provide philatelic services;

(6) to provide, establish, change or abolish special nonpostal or similar services;

(7) to investigate postal offenses and civil matters relating to the Postal Service;

(8) to offer and pay rewards for information and services in connection with violations of the postal laws, and, unless a different disposal is expressly prescribed, to pay one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues or property to the person informing for the same, and to pay the other one-half into the Postal Service Fund, and

(9) to authorize the issuance of a substitute check for a lost, stolen or destroyed check of the Postal Service.

(b)(1) The Postal Service, prior to making a determination under subsection (a)(3) of this section as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to ensure that such persons will have an opportunity to present their views.

(2) The Postal Service, in making a determination whether or not to close or consolidate a post office, shall consider—

(A) the effect of such closing or consolidation on the community served by such post office;

(B) *the effect of such closing or consolidation on employees of the Postal Service employed at such office* (bold italics ours—Ed.);

(C) whether such closing or consolidation is con-

sistent with the policy of the government, as stated in Section 101(b) of this title, *that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining* (bold italics ours—Ed.);

(D) the economic savings to the Postal Service resulting from such closing or consolidation, and

(E) such other factors as the Postal Service determines are necessary.

(3) Any determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2) of this subsection. Such determination and findings shall be made available to persons served by such post office.

(4) The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office.

(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Rate Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(B) without observance of procedure required by law, or

(C) unsupported by substantial evidence on the record.

The Commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal. The provisions of Section 556, Section 557, and Chapter 7 of Title 5 shall not apply to any review carried out by the Commission under this paragraph.

**POSTAL SERVICE PROCEDURES FOR DISCONTINUING A POST OFFICE**  
*Postal Operations Manual (POM), July 1995*

**123.6 DISCONTINUANCE OF POST OFFICES**

**123.61 INTRODUCTION**

**123.611 Coverage**

This section establishes the rules governing the Postal Service's consideration of whether an existing post office should be discontinued. The rules cover any proposal to replace a post office with a community post office, station or branch by consolidation with another post office and any proposal to discontinue a post office without providing a replacement facility.

**123.612 Legal Requirements**

Under 39 United States Code (U.S.C.) 404(b), any decision to close or consolidate a post office must be based on certain criteria. These include the effect on the community served; the effect on employees of the post office; ***compliance with government policy established by law that the Postal Service must provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining*** (bold italics ours—Ed.); the economic savings to the Postal Service; and any other factors the Postal Service determines necessary. In addition, certain mandatory procedures apply:

a. The public must be given 60 days' notice of a proposed action to enable the persons served by a post office to evaluate the proposal and provide comments.

b. After public comments are received and taken into account, any final determination to close or consolidate a post office must be made in writing and must include findings covering all the required considerations.

c. The written determination must be made available to persons served by the post office at least 60 days before the discontinuance takes effect.

d. Within the first 30 days after the written determination is made available, any person regularly served by the affected post office may appeal the decision to the Postal Rate

Commission.

e. The Commission may affirm the Postal Service determination or return the matter for further consideration, but may not modify the determination.

f. The Commission is required by 39 U.S.C. 404(b)(5) to make a determination on the appeal no later than 120 days after receiving the appeal.

g. A summary table of the notice and appeal periods under the statute for these regulations is in Exhibit 123.612.

toward the final decision.

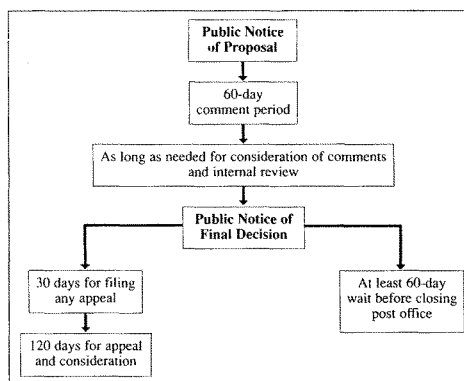
**123.62 PRESERVATION OF COMMUNITY ADDRESS**

**123.621 Policy**

The Postal Service permits the use of a community's separate address to the extent practicable.

**123.622 ZIP Code Assignment**

The ZIP Code for each address formerly served from the discontinued post office should be the ZIP Code of



Public Notice of Proposal Exhibit 123.612

**123.613 Additional Requirements**

Section 123.6 includes the following:

a. Rules to ensure that the community's identity as a postal address is preserved.

b. Rules for consideration of a proposed discontinuance and for its implementation, if approved. These rules are designed to ensure that the reasons leading a district manager, Customer Service and Sales, to propose the discontinuance of a particular post office are fully articulated and disclosed at a stage that enables customer participation to make a helpful contribution

the facility providing replacement service to that address. In some cases, the ZIP Code originally assigned to the discontinued post office may be kept, if the responsible district manager, Customer Service and Sales, submits a request with justification to Address Management, Postal Service Headquarters, before the proposal to discontinue the post office is posted.

a. In a consolidation, the ZIP Code for the replacement community post office, station or branch is either the ZIP Code originally assigned to the discontinued post office, or the ZIP Code of the replacement facility's

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**POSTAL SERVICE PROCEDURES FOR DISCONTINUING A POST OFFICE**

— continued —

parent post office, whichever provides the most expeditious distribution and delivery of mail addressed to the customers of the replacement facility.

b. If the ZIP Code is changed and the parent post office covers several ZIP Codes, the ZIP Code must be that of the delivery area in which the facility is located.

**123.623 Post Office Name in Address**

If all the delivery addresses using the name of the post office to be discontinued are assigned the same ZIP Code, customers may continue to use the discontinued post office name in their addresses instead of the new delivering post office name.

**123.624 Name of Facility Established by Consolidation**

If a post office to be discontinued is consolidated with one or more post offices by establishing in its place a community post office, classified or contract station, or branch affiliated with another post office involved in the consolidation, the replacement unit is given the same name as the discontinued post office.

**123.625 List of Discontinued Post Offices**

Publication 65, *National Five-Digit ZIP Code and Post Office Directory*, lists all post offices discontinued after March 14, 1977, for mailing address purposes only if they are used in addresses. The ZIP Codes listed for discontinued offices are those assigned under 123.622.

**123.63 INITIAL PROPOSAL**

**123.631 General**

If a district manager, Customer Service and Sales, believes that the discontinuance of a post office within his or her responsibility may be warranted, the manager must take the following steps:

- a. Use the standards and procedures in 123.63 and 123.64.
- b. Investigate the situation.

c. Propose the post office be discontinued.

**123.632 Consolidation**

The proposed action may include a consolidation of post offices to substitute a community post office or a classified or contract station or branch for the discontinued post office if either of the following conditions apply:

- a. The communities served by two or more post offices are being merged into a single incorporated village, town or city, or
- b. A replacement facility is necessary for regular and effective service to the area served by the post office considered for discontinuance.

**123.633 Views of Postmasters**

Whether the discontinuance under consideration involves a consolidation or not, the district manager, Customer Service and Sales, must discuss the matter with the postmaster (or the officer in charge) of the post office considered for discontinuance and with the postmaster of any other post office affected by the change. The manager should make sure these officials submit written comments and suggestions as part of the record when the proposal is reviewed.

**123.634 Preparation of Written Proposal**

The district manager, Customer Service and Sales, must gather and preserve for the record all documentation used to assess the proposed change. If the manager thinks the proposed action is warranted, he or she must prepare a document titled Proposal to (Close) (Consolidate) the (Name) Post Office. This document must describe, analyze and justify in sufficient detail to Postal Service management and affected customers the proposed service change. The written proposal must address each of the following matters in separate sections:

- a. *Responsiveness to Community Postal Needs. It is the policy of the gov-*

*ernment, as established by law, that the Postal Service will provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining (bold italics ours—Ed.).* The proposal should contrast the services available before and after the proposed change; describe how the changes respond to the postal needs of the affected customers, and highlight particular aspects of customer service that might be less advantageous as well as more advantageous.

b. *Effect on Community.* The proposal must include an analysis of the effect the proposed discontinuance might have on the community served, and discuss the application of the requirements in 123.62.

c. *Effect on Employees.* The written proposal must summarize the possible effects of the change on the postmaster, supervisors and other employees of the post office considered for discontinuance. (The district manager, Customer Service and Sales, must suggest measures to comply with personnel regulations related to post office discontinuance and consolidation.)

d. *Savings.* The proposal must include an analysis of the economic savings to the Postal Service from the proposed action, including the cost or savings expected from each major factor contributing to the overall estimate.

e. *Other factors.* The proposal should include an analysis of other factors that the district manager, Customer Service and Sales, determines necessary for a complete evaluation of the proposed change, whether favorable or unfavorable.

(*Very often, the USPS fails to meet its obligation with respect to listing unfavorable factors, such as alternative sites or available structures within the community, or the willingness of the facility owner to make required modifications—Ed.*)

f. *Summary.* The proposal must include a summary that explains why the proposed action is necessary and



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POSTAL SERVICE PROCEDURES FOR DISCONTINUING A POST OFFICE  
— continued —

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assesses how the factors supporting the proposed change outweigh any negative factors. In taking competing considerations into account, the need to provide regular and effective service is paramount.

g. *Notice.* The proposal must include the following notice: THIS IS A PROPOSAL. IT IS NOT A FINAL DETERMINATION TO (CLOSE) (CONSOLIDATE) THIS POST OFFICE.

(1) If a final determination is made to close or consolidate this post office, after public comments on this proposal are received and taken into account, a notice of that final determination must be posted in the post office to be closed.

(2) The final determination must contain instructions on how affected customers may appeal that decision to the Postal Rate Commission. Any such appeal must be received by the Commission within 30 days of the posting of the final determination.

#### 123.64 NOTICE, PUBLIC COMMENT, AND RECORD

##### 123.641 *Posting Proposal and Comment Notice*

A copy of the written proposal and a signed invitation for comments must be posted prominently in each affected post office. The invitation for comments must do the following:

a. Ask interested persons to provide written comments, within 60 days, to a stated address offering specific opinions and information, favorable or unfavorable, on the potential effect of the proposed change on postal services and the community.

b. State that copies of the proposal with attached optional comment forms are available in the affected post offices.

c. Provide a name and telephone number to call for information.

##### 123.642 *Proposal and Comment Notice*

Exhibit 123.642 is a sample for-

mat that may be used for the proposal and comment notice (*see page 13*).

##### 123.643 *Other Steps*

In addition to providing notice and inviting comment, the district manager, Customer Service and Sales, must take any other steps necessary to ensure that the persons served by the post office affected understand the nature and implications of the proposed action (e.g., meeting with community groups and following up on comments received that seem to be based on incorrect assumptions or information).

a. If oral contacts develop views or information not previously documented, whether favorable or unfavorable to the proposal, the district manager, Customer Service and Sales, should encourage persons offering the views or information to provide written comments to preserve them for the record.

b. As a factor in making his or her decision, the district manager, Customer Service and Sales, may not rely on communications received from anyone, unless submitted in writing for the record.

*(No active postmaster should play any role in the investigation of a post office for closing or consolidation; neither should an active postmaster be a participant in any decision to close a post office—Ed.)*

##### 123.644 *Record*

The district manager, Customer Service and Sales, must keep as part of the record for his or her consideration and for review by the Chief Marketing Officer and Senior Vice President all the documentation gathered about the proposed change.

a. The record must include all information that the district manager, Customer Service and Sales, considered, and the decision must stand on the record. No information or views submitted by customers may be excluded.

b. The docket number assigned to

the proposal must be the ZIP Code of the office proposed for closing or consolidation.

c. The record must include a chronological index in which each document is identified and numbered as filed.

d. As written communications are received in response to the public notice and invitation for comments, they are included in the record.

e. A complete copy of the record must be available for public inspection during normal office hours at the post office proposed for discontinuance or at the post office providing alternative service, if the office to be discontinued was temporarily suspended under 123.7, Emergency Suspension of Service, beginning no later than the date on which notice is posted and extending through the comment period.

f. Copies of documents in the record (except the proposal and comment form) are provided on request and upon payment of fees as listed in ASM 352.6.

#### 123.65 CONSIDERATION OF PUBLIC COMMENTS AND FINAL LOCAL RECOMMENDATION

##### 123.651 *Analysis of Comments*

After waiting not less than 60 days after notice is posted under 123.641, the district manager, Customer Service and Sales, must prepare an analysis of the public comments received for consideration and inclusion in the record. If possible, comments subsequently received should also be included in the analysis. The analysis should list and briefly describe each point favorable to the proposal and each point unfavorable to the proposal. The analysis should identify, to the extent possible, how many comments support each point listed.

##### 123.652 *Reevaluation of Proposal*

After completing the analysis, the district manager, Customer Service

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**POSTAL SERVICE PROCEDURES FOR DISCONTINUING A POST OFFICE**

– continued –

and Sales, must review the proposal and re-evaluate all the previously made tentative conclusions in light of any additional customer information and views in the record.

a. *Discontinuance Not Warranted.* If the district manager, Customer Service and Sales, decides against the proposed discontinuance, he or she must post, in the post office considered for discontinuance, a notice stating that the proposed closing or consolidation is not warranted.

b. *Discontinuance Warranted.* If the district manager, Customer Service and Sales, decides that the proposed discontinuance is justified, the appropriate sections of the proposal must be revised, taking into account the comments received from the public. After making necessary revisions, the manager must take the following steps:

(1) Forward the revised proposal and the entire record to the Chief Marketing Officer and Senior Vice President for final review.

(2) Attach a certificate that all documents in the record are originals or true and correct copies.

#### **123.66 POSTAL SERVICE DECISION**

##### **123.661 General**

The Chief Marketing Officer and Senior Vice President or a designee must review the proposal of the district manager, Customer Service and Sales. This review and the decision on the proposal must be based on and supported by the record developed by the district manager. The senior vice president can instruct the district manager to provide more information to supplement the record. Each such instruction and the response must be added to the record. The decision on the proposal of the district manager, which must also be added to the record, may approve or disapprove the proposal, or return it for further action as set forth below.

##### **123.662 Approval**

The Chief Marketing Officer and

Senior Vice President or a designee may approve the proposal of the district manager, Customer Service and Sales, with or without further revisions. If approved, the term Final Determination is substituted for Proposal in the title. A copy of the Final Determination must be provided to the district manager. The Final Determination constitutes the Postal Service determination for the purposes of 39 U.S.C. 404(b). The Final Determination must include the following notices:

a. *Supporting Materials.* "Copies of all materials on which this Final Determination is based are available for public inspection at the (name) Post Office during normal office hours."

b. *Appeal Rights.* "This Final Determination to (close) (consolidate) the (name) Post Office may be appealed by any person served by that office to the Postal Rate Commission. Any appeal must be received by the Commission within 30 days of the date this Final Determination was posted. If an appeal is filed, copies of appeal documents prepared by the Postal Rate Commission, or the parties to the appeal, must be made available for public inspection at the (name) Post Office during normal office hours."

##### **123.663 Disapproval**

The Chief Marketing Officer and Senior Vice President or a designee may disapprove the proposal of the district manager, Customer Service and Sales, and return it and the record to the manager with written reasons for disapproval. The manager must post a notice in each office cited in 123.6 that the proposed closing or consolidation is determined not warranted.

##### **123.664 Return for Further Action**

The Chief Marketing Officer and Senior Vice President or a designee may return the proposal of the district manager, Customer Service and Sales, with written instructions to give additional consideration to matters in the record, or to obtain additional information.

Such instructions must be placed in the record.

##### **123.665 Public File**

Copies of each Final Determination and each disapproval of a proposal by the district manager, Customer Service and Sales, must be placed on file in the Postal Service Headquarters Library.

#### **123.67 IMPLEMENTATION OF FINAL DETERMINATION**

##### **123.671 Notice of Final Determination to Discontinue Post Office**

When giving notice of a Final Determination, the district manager, Customer Service and Sales, must do the following:

a. Provide notice of the Final Determination by posting a copy prominently in the affected post office or offices. The date of posting must be noted on the first page of the posted copy as follows:

"Date of Posting: \_\_\_\_\_, 19\_\_\_\_."

The district manager, Customer Service and Sales, must notify the Chief Marketing Officer and Senior Vice President in writing, of the date of posting.

b. Ensure that a copy of the completed record is available for public inspection during normal business hours at each post office where the Final Determination is posted, for 30 days from the posting date.

c. Provide copies of documents in the record on request and payment of fees under ASM 352.6.

##### **123.672 Implementation of Determinations Not Appealed**

If no appeal is filed pursuant to 39 U.S.C. 404(b)(5), the official closing date of the office must be published in the *Postal Bulletin*, effective the first Saturday 90 days after the Final Determination was posted. A district

(continued on back cover)

## UNITED STATES POSTAL SERVICE

### Proposal to (Close)(Consolidate) the (Name) Post Office and Optional Comment Form

■

Attached is a proposal that we are considering for providing your community with more economical and efficient postal service, while also providing regular and effective service. Please read the proposal carefully and then let us have your comments and suggestions. If you choose, you may use the form below. Your comments will be carefully considered and will be made part of a public record. If you use the form below and need more space, please attach additional sheets of paper.

Return the completed form to \_\_\_\_\_ by \_\_\_\_\_.

In considering this proposal, if you have any questions you want to ask a postal official, you may call \_\_\_\_\_ whose telephone number is \_\_\_\_\_.

#### I. EFFECT ON YOUR POSTAL SERVICES

Please describe any favorable or unfavorable effects that you believe the proposal would have on the regularity or effectiveness of your postal service.

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#### II. EFFECT ON YOUR COMMUNITY

Please describe any favorable or unfavorable effects that you believe the proposal would have on your community.

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#### III. OTHER COMMENTS

Please provide any other view or information that you believe the Postal Service should consider in deciding whether to adopt the proposal.

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(Signature of Postal Customer)

(Date)

(Mailing Address)

(City)

(State)

(ZIP Code)

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## THE ROLE OF THE POSTAL RATE COMMISSION

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**C**ongress has provided, by law, that the Postal Service follow a specific procedure and consider certain factors before making a final determination to close or consolidate a post office.

The law gives any customer the right to appeal the Postal Service's final determination to the Postal Rate Commission (PRC)—an independent agency not associated with the Postal Service. It is the responsibility of the PRC, when a customer appeals a Postal Service final determination, to decide whether the Postal Service's actions were consistent with the law.

The purpose of this section is to help explain the PRC's process in dealing with appeals of Postal Service determinations to close or consolidate post offices.

To assist the PRC in its consideration of the appeal from the Postal Service's decision to close or consolidate a post office, customers should send a written argument explaining why they believe the PRC should revise the Postal Service's determination and return the entire matter to it for further consideration.

### POSTAL RATE COMMISSION AUTHORITY

In cases of appeals from Postal Service determinations to close or consolidate post offices, the PRC has only "appellate jurisdiction"—a very limited authority.

One limitation on the PRC's authority is that they cannot conduct their own fact-finding investigation. The PRC must consider appeals based upon the "record" (the proposal, final determination and other documents involved in the decision-making) that the Postal Service collected during the time it was making its decision whether or not to close or consolidate the Post Office. The Postal Service's regulations require that a copy of the record be available at the affected post office for 30 days after the final determination is posted.

The PRC may not return a final determination to the Postal Service merely because the PRC believes a different result might be just as good or better. Rather, the PRC may only examine the Postal Service's decision and record, and decide whether the Postal Service has stayed within the guidelines the law has set up.

Specifically, the law requires that the PRC affirm the Postal Service's final determination unless the determination is:

- (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (b) without observance of procedure required

by law, or

(c) unsupported by substantial evidence on the record.

Furthermore, the PRC may not change the Postal Service's final determination. It may only (1) affirm (with the result that the Postal Service's decision will stand), or (2) return the entire matter to the Postal Service for further consideration.

### PARTICIPANT BRIEF OR STATEMENT

The purpose of the brief or participant statement is to point out issues that you believe the PRC should consider in its review of the Postal Service's actions. A customer may choose to file either a participant statement or a formal legal brief. General examples of some issues that would be proper to include would be:

- (1) That the Postal Service did not consider certain issues it is required to consider;
- (2) The facts upon which the Postal Service is relying have not been established;
- (3) The Postal Service did not follow the procedure required by law, and
- (4) The facts in the Postal Service's final determination are true, but they do not prove what the Postal Service says they prove.

It is best to be as specific as possible.

In reviewing Postal Service determinations to close or consolidate post offices, the PRC proceedings can be much less formal than is customary in courts. The PRC does not require customers appealing Postal Service decisions to meet the usual requirements as to the form of papers filed, such as typing the documents. No technical formalities are required. A handwritten letter will suffice. However, it is important that papers sent to the PRC be legible. It is also important for statements to be clear and as specific as possible.

### TIME FOR FILING PARTICIPANT STATEMENT

The date a brief or participant statement is due should be posted at the post office slated for closing or consolidation. Customers of the office must, within the first 30 days after the written determination is made available by the Postal Service, appeal the decision to the PRC. Under its rules, the PRC must receive briefs and participant statements within 30 days (rather than receiving briefs that are simply postmarked by that day).

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## THE APPEALS PROCESS MAY SAVE A POST OFFICE, BUT ONLY IF USED

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By the Hon. Wayne Schley  
Former Postal Rate Commissioner

**S**ection 101(b) of Title 39 of the U.S. Code reads as follows:

"The Postal Service shall provide a maximum degree of effective and regular postal service to rural areas, and small towns where post offices are not self-sustaining. *No small post office shall be closed solely for operating at a deficit* (emphasis mine), it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities."

Too often this section of the law governing the U.S. Postal Service has been overlooked or not carried out in the spirit that Congress intended. Consequently, in 1976 Congress added a new responsibility to the Postal Rate Commission (PRC). That new task was the responsibility of serving as an appellate court, so to speak, for those interested citizens who wished to object to any action to close or consolidate their local post office.

The idea was to allow the local citizens to ensure the law was being carried out as Congress intended. Since the PRC accepted this new responsibility, there have been 292 appeals by citizens to stop the taking away of their post offices. Of these, 54 have been remanded, or rejected, and sent back to the Postal Service.

It should be noted, however, that 22 of these rejected cases occurred in the first year when the Postal Service was learning how to go about the process of closing a post office. The agency has learned its lesson well; in the past 19 years, it has lost only 32 cases.

Of the almost 300 cases appealed before the PRC, 66 have been dismissed or withdrawn by the Postal Service. These cases, by and large, were ones so deficient that the Postal Service itself withdrew its efforts to close or consolidate the post offices.

One startling fact should be noted: Less than 8 percent of all post office closings or consolidations are appealed. It is hard to believe that 100 percent of the people in 92 percent of the communities faced with the loss of their post offices do not object. I suspect the real reason for so few appeals is that folks simply do not know that you can fight City Hall, or in this case, the Postal Service. Remember, it is not really so much "fighting City Hall" as it is simply being heard by a disinterested party in order to prevent a federal agency trampling on

the rights of postal customers.

The Postal Rate Commission is, indeed, a disinterested third party. It has been said that, if anything, the PRC bends over backwards not to interfere with the Postal Service's management prerogatives in these cases. In fact, the law does not allow the commission to second-guess postal management's decision to close or consolidate a post office. The Postal Rate Commission may only examine the agency's decision and record, and decide whether the Postal Service has stayed within the guidelines the law has established.

The law requires the Postal Rate Commission to approve the Postal Service's decision unless the agency was:

- arbitrary, capricious, indiscreet, or otherwise not in accordance with the law;
- without observance of procedures required by law, or
- unsupported by substantial evidence on the record.

In actuality, the Postal Rate Commission may not change the Postal Service's final decision to close or consolidate an office. It can only affirm, or let stand, the agency's decision, or return (remand) for further consideration (i.e., do it right next time).

Despite all the above, the appeals process is very important in bringing to light the actions of Postal Service management and ensuring they follow not only the letter of the law, but the spirit of the law, as well. Once an issue sees the light of day, minds often can be changed. Elected officials and the public can become involved. Efforts to save a post office can be galvanized.

However, unless the appeals process is used, none of these actions can occur. The key is to use the appeals process the way Congress intended. When 92 percent of the post offices are closed without the appeals process being used, the law is not working the way Congress envisioned.

The challenge—especially to retired Postmasters—is to either use, or urge others to use, the appeals process where warranted. If it is not used, there is no chance to save a post office. The result is a loss not only to the community and the Postal Service—which, after all, loses a retail outlet—but to the nation as a whole.

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**POSTAL SERVICE PROCEDURES FOR DISCONTINUING A POST OFFICE**

– continued from page 12 –

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manager, Customer Service and Sales, may request a different date for official discontinuance when the documents are submitted to the Chief Marketing Officer and Senior Vice President. However, the post office may not be discontinued sooner than 60 days after the posting of the notice required by 123.671.

#### **123.673 Actions During Appeal**

The procedures for appeal are as follows:

##### *a. Implementation of*

*Discontinuance.* If an appeal is filed, only the Chief Marketing Officer and Senior Vice President may direct a discontinuance before disposition of the appeal. However, the post office may not be discontinued sooner than 60 days after the posting of notice required by 123.671.

##### *b. Display of Appeal Documents.*

Classification and Customer Service, Postal Service General Counsel must provide the district manager, Customer Service and Sales, with copies of all pleadings, notices, orders, briefs and opinions filed in the appeal proceeding.

(1) The district manager must ensure that copies of all these documents are prominently displayed and available for public inspection in the post office to be discontinued. If that post office has been or is discontinued, the manager must display copies in the affected post offices.

(2) All documents except the Postal Rate Commission's final order and opinion must be displayed until the final order and opinion are issued. The final order and opinion must be displayed for 30 days.

#### **123.674 Actions Following Appeal Decision**

The procedures following an appeal decision are outlined below.

*a. Determination Affirmed.* If the Commission dismisses the appeal or affirms the Postal Service's determination, the official closing date of the office must be published in the *Postal Bulletin*, effective the first Saturday 90 days after the Commission renders its opinion, if not previously implemented under 123.673a. However, the post office may not be discontinued sooner than 60 days after the posting of the notice required under 123.671.

*b. Determination Returned for Further Consideration.* If the Commission returns the matter for further consideration, the Chief Marketing Officer and Senior Vice President must direct that either (1) notice be provided under 123.663 that the proposed discontinuance is determined not to be warranted or (2) the matter be returned to an appropriate stage under these regulations for further consideration following such instructions as the Chief Marketing Officer and Senior Vice President may provide.

#### **123.7 EMERGENCY SUSPENSION OF SERVICE**

##### **123.71 Authority and Conditions**

A district manager, Customer Service and Sales, may suspend the operations of any post office under his or her jurisdiction when an emergency or other conditions require such action. Circumstances that justify a suspension include but are not limited to a natural disaster, the termination of a lease when other adequate quarters are not available, the lack of qualified employees for the office, severe damage to or destruction of the office, and the lack of adequate measures to safeguard the office or its revenue. The district manager must provide written notice of any suspension by FAX to the Chief Marketing Officer and Senior Vice President.

##### **123.72 Discontinuance of Suspension**

If it is proposed to discontinue a suspended post office rather than restore operations, the procedures outlined in 123.6 must be followed. All notices and other documents required to be posted or kept in the office to be discontinued must be posted or kept in the post office or offices temporarily serving the customers of the suspended post office.



PREPARED BY THE

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TESTIMONY OF STEVE LENOIR  
OF THE NATIONAL LEAGUE OF POSTMASTERS  
Washington, D.C. February 4, 2004

Chairman Collins, members of the Committee, thank you for inviting us to appear before you today. My name is Steve LeNoir and I am the President of the National League of Postmasters. I have been President of the LEAGUE since 2002, and have served in state, regional, and national positions since 1982. I welcome this opportunity to discuss the important issue of postal reform.

Started in 1887 to represent rural postmasters, and formally organized in 1904, the National League of Postmasters is a management association representing the interests of all Postmasters. Although we represent postmasters from all across the country—from the very smallest to the very largest Post Offices—rural Postmasters are a sizable portion of our membership. The LEAGUE speaks for thousands of retired Postmasters as well.

On a personal note, I am from Horatio, South Carolina, and have been postmaster there since 1981. Currently, I am on leave from my postmaster position to serve with the LEAGUE here in Washington.

Postal Reform is critical to continue the long-term ability of the United States Postal Service to provide affordable, universal mail service to every individual, home, and business in America. There is no doubt that the Postal Service needs fundamental change. We know that our jobs—and those of the people we manage—are ultimately at stake. We appreciate your efforts very much, particularly those focused on employment issues.

One of the concerns the League has with postal reform is that some individuals might think that closing small rural or inner city post offices would save a considerable amount of money. That simply is not true. As we point out below, the cost of the 10,000 smallest Post Offices is less than one percent (1%) of the total budget of the Postal Service.

The most pressing postal issues today are the CSRS issues. Last year Congress passed the Civil Service Retirement System (CSRS) legislation that reformed pension funding and corrected an overpayment to CSRS that saved the Postal Service billions of dollars. We thank you for your efforts in getting that through Congress so quickly. But we still need to address the issues surrounding the postal “escrow” and the \$27 billion in military retirement benefits to be paid by the Postal Service for the military service of postal employees earned *before* joining the Postal Service.

Last years legislation put the CSRS overpayment into an escrow account, pending a Congressional determination of how to use the money. That money is just sitting there waiting for Congress to decide, and if Congress doesn’t decide soon, the Postal Service will be forced to raise rates to an artificially high level that will hurt mailers.

The Postal Service has suggested using the CSRS “savings” to pre-fund retirees’ benefits, thus funding one of the biggest unfunded liabilities the Postal Service will face in the future. We think that is an excellent idea and strongly support it.

Also, last year CSRS legislation forced the Postal Service to assume the responsibility for \$27 billion of military retirement benefits that were earned by postal



employees for service before joining the Postal Service. That responsibility is not one the Postal Service should bear, and it deserves to be transferred back to the General Treasury.

We strongly urge Congress and the Committee to make both these issues a top priority.

### **I. Postal Compensation Issues.**

This past year Postal Headquarters, the National League of Postmasters, NAPUS and NAPS worked together to develop a compensation system that promotes something other than a “finish line” mentality. In the past, compensation systems for Postal Managers were an all or nothing system; you either met the goal or you missed it.

Now, we have created a new compensation system for Postmasters and other managers—“Pay for Performance (PFP)”—and it will be a good driver of productivity. It recognizes individuals not only for their contribution to the corporate goals but also their individual performance. It drives the right behavior by constantly encouraging individuals to strive for stretch and breakthrough productivity. Even small measures of improvements will be rewarded. Stretch and breakthrough productivity will be rewarded at higher levels.

The new pay for performance system takes three factors into account: how we perform nationally as a postal service, how our post office performed and how we performed as an individual. With this new system, everyone is aligned with their performance goals. It’s a concept of recognizing both team and individual performance that we’ve never had before

At the post office level, some of the criteria on which we are judged are service indicators such as Express Mail performance and delivery confirmation scans. Some of the financial benchmarks are total operating expenses and budgeted work hour usage. It is important to note that a major portion of a Postmasters evaluation hinges on revenue generation. At the end of the evaluation we are judged on our post offices total revenue versus the amount of revenue we generated the prior year.

When all the factors are weighed there is a formula that gives the Postmaster a numerical rating between 0-15. Depending on where you fall in that rating you are classified as a non-contributor, contributor, high contributor, or exceptional contributor. Then that rating is converted into the percentage of pay raise that the Postmaster will receive.

I believe we have developed a fair system and the postal service has committed to review the process after the first year to see if any adjustments are needed.

The compensation system for rural delivery is also a good driver of productivity in that it provides for an evaluated system that is paid by workload, which includes a combination of mail volume, number of deliveries, mileage and stops. This process provides a win-win situation for both the rural carriers and the USPS. In this case the employee can leave after their work is completed and still be paid according to their evaluation.

Collective bargaining presents different challenges in developing a compensation system. Generally, employees who are paid solely on an hourly basis are not motivated to exceptional performance. These employees need to work eight hours without regard to

how much work is completed. Exceptional performance leads to additional work. Often less than exceptional performance leads to overtime pay.

## **II. Potential for Improvements to Existing Work Rules.**

While, as we have said, the League is pleased so far with the new pay for performance system, we do believe there are too many layers of management between Postmasters and Postal Headquarters, and that some should be removed. We feel strongly that Postmasters should have the authority to manage their Post Offices without being micro managed.

In terms of the people we manage, one problem is that promotions in craft positions are determined by seniority. In many cases the most senior person is not the best qualified for the job. It is not that he or she might be a bad employee, but just not the right person for a particular spot.

Moreover, we need much more flexibility in how we are able to use our craft employees. Current rules prohibit craft employees from doing work in other crafts. We could greatly improve efficiency if we had more flexibility.

One area in which we have made considerable progress is that we have reduced the number of grievances filed by employees. We need to continue making progress in this area and work with the Unions to revise outdated work rules. Finally, there is a need to address sick leave for FERs employees. Currently they get no credit for unused leave at retirement. We need to change this rule so they could sell back sick leave or get credit at retirement.

### **III. Postal Infrastructure.**

Chairman Collins, as we noted above, one of the League's concerns is rural post offices. Not only am I a rural postmaster, but my wife is a rural postmaster in South Carolina and she was a rural postmaster in West Virginia before that. My mother was a Postmaster for 32 years, and the type of dedicated person that worked in the Post Office right up until the day I was born. My great grandfather, Walter LeNoir, was the Postmaster in Horatio from 1900 to 1935. So, when I speak of rural Post Offices, I speak from a century-old tradition.

#### **The Cost of Rural Post Offices Is Less Than One Percent of the Postal Service's Budget.**

The League is concerned that access to a Post Office in a rural community could dramatically change if postal reform is not implemented properly. We are particularly concerned that overzealous individuals could develop a mistaken belief that closing small Post Offices would net meaningful savings for the Postal Service. That simply is not true. As the Postal Rate Commission's Robert Cohen pointed out, the cost of the 10,000 smallest Post Offices is less than one percent (1%) of the total budget of the Postal Service. Testimony of Robert Cohen before the President's Commission on the Postal Service, February 20, 2003 at 2, 9-10.

#### **Whether Rural and Inner City Post Offices Are Profitable Depends Upon Postal Accounting of Revenues and Costs.**

There is a widespread misconception that many rural and inner city Post Offices are not profitable, and that more than half of the Post Offices do not break even. This is

not an accurate picture of the situation because none of the revenue from a piece of mail is credited to the Post Office where the mail is delivered.

For instance, Carolina Power & Light serves a two-state area and mails electric bills all across North and South Carolina, including hundreds of rural and inner city Post Offices. All the revenue from a Carolina Power & Light mailing is credited to one Post Office in Raleigh, North Carolina. None of it is credited to the hundreds of Post Offices that actually deliver the bills. Clearly it is wrong to say that the Raleigh Post Office is profitable in regards to this mailing simply because it is credited with all the revenue, and to say that the smaller delivery Post Offices are not profitable simply because they are credited with no revenue but have to bear the costs. This is a major mismatch of revenues and costs, which results in a distorted picture of which Post Offices are “profitable” and which are “not profitable.”

**Post Offices Are Necessary To Provide  
Universal Service in Rural America.**

In the LEAGUE’s testimony before the President’s Commission on the Postal Service we argued—as many others did—that Universal Mail Service was still needed. We were very pleased to see that the first lines of the Commission’s Report reaffirmed that view: “Universal postal service remains vital to the nation and its economy at the dawn of the 21<sup>st</sup> century.” Commission Report at vii.

Yet the Commission did not define Universal Service, and we know of no clear definition of Universal Service. As we read it, the question remains open as to what constitutes Universal Service.

The League believes that providing Universal Service means not only providing universal mail delivery to all citizens, but also providing equal access to all postal

services, including Post Offices. The Postal Service has an obligation to provide quality postal services and access to Post Offices on a universal basis, regardless of whether a Post Office is “profitable.” This is particularly true in rural America where Post Offices play a role that go far beyond providing postal services.

The local Post Office is an American institution that is critical to the well-being of rural America. It should not be harmed, for it is the institution that literally binds rural America together, politically, socially, and economically. It is the lifeblood of rural communities.

It is a big deal when the mail arrives at a local Post Office, and often many are there to greet it. Rural Post Offices fulfill a need for this segment of the population as well as provide invaluable service to these customers that one cannot measure in dollars.

Rural Post Offices also serve as gathering places where social news is exchanged and political issues discussed, often with some heat. It is in the rural Post Offices that political questions are addressed, sides argued, and opinions formed. For decades Post Offices have been gathering places where friends share news of graduations, birthdays, and marriages. Neighbors would wait for letters from sons and daughters away at college or serving in the Armed Forces. Rural Post Offices have also provided safe havens for children as school bus stops.

Many rural Postmasters provide services that go above and beyond the call of duty. Postmasters help address envelopes for their patrons, as well as read and explain mail to them. For instance, I used to help customers that didn’t have educational opportunities fill out money orders, write checks, and write correspondence. Additionally, state and federal forms are available in post office lobbies, and rural

Postmasters often help local citizens with these. Local Post Offices also provide community bulletin boards and post federal notices. These are critical services to the rural community.

Even if closing rural Post Offices did save sizeable amounts of money, and even if postal accounting did appropriately credit revenues to Post Offices of delivery, we believe Post Offices must be measured by the service they provide to the entire nation and not be judged solely on financial considerations. The local Post Office is an icon of rural America, and neither Congress nor the Postal Service should tamper with it, for once a town's Post Office disappears, the town often shrivels up and dies.

We were pleased to see that the President's Commission agrees with us: "'low-activity' Post Offices that continue to be necessary for the fulfillment of the Postal Service's universal service obligation should not be closed, even if they operate at a substantial economic loss." Commission Report at XIV (*italics in original*).

We urge the Committee to see that a definition of Universal Service in any postal reform bill makes it clear that Post Offices are necessary to fulfill the Universal Service mandate, particularly in rural areas, where Post Offices play such a critical role.

#### **Keep the Current Post Office Closing Rules.**

While we understand there are legitimate reasons to close a Post Office, we do not believe that the existing rules pertaining to the discontinuance of Post Offices should be changed or modified. These rules are fair to customers, local communities, and to the management of the Postal Service. While we do not believe that the current Postmaster General and Headquarters staff have a hidden agenda on Post Office closings, we cannot

be assured that future leadership will have that same philosophy or the same sensitivity to the needs and interests of the local community, if the law were relaxed.

**Flexibility to Close Mail Processing Facilities.**

The ability to close mail processing facilities is markedly different from the issue of closing small Post Offices. In November of 2003, Senators Collins and Carper sent Postmaster General Jack Potter a letter requesting information on the Postal Service's plans in this area by April 7, 2004:

You testified that the Postal Service must have the ability to alter its retail and mail processing networks to meet customer needs, provide increased access, and achieve greater operational efficiency. In this regard, the Service's Transformation Plan noted that the Service plans to optimize its retail network, including closing retail facilities deemed to be redundant and reducing the Service's physical infrastructure in markets where the Postal Service considers its retail access to be over represented. . . . we would like for you to provide the Committee with a plan that lays out how the Postal Service intends to optimize its infrastructure and workforce. The plan should describe the criteria, process, and data the Service uses to make its decisions, as well as the parties consulted in the plan's development."

The LEAGUE is waiting to hear how the Postal Service addresses this issue before we comment further.

**The Difference in the Retail Markets for Selling Postal Services and Products Requires Two Different Approaches.**

We agree with the Commission's recommendation to make postal services, such as stamps and service kiosks, more convenient for customers and to take some of that activity out of Post Offices. But, there's an important fact to note—there are two different retail markets and we should not have a one-size-fits-all mentality.

One market is that of the large Post Offices, whose long lines are a detriment to service. Those Post Offices can benefit by providing more basic service outlets in the



area, outside of the Post Office. However, in medium to small Post Offices, where lines are not an issue, we see a big benefit in having customers transact business in our postal lobbies. That gives us a chance to up sell postal products in addition to offering other services.

The Presidential Commission suggests that we move postal retail to Wal-Marts and other such large retail outlets. While that may make good business sense in large retail markets where lines are an issue, I believe it would be short sighted not to use our lobbies in medium to smaller Post Offices to their full benefit. When customers enter our lobbies, we have a chance to up-sell postal products. We should take advantage of that opportunity.

#### **IV. The Administration's Five Principles for Postal Reform.**

The recent Report of the President's Commission on the Postal Service concluded "if the nation embraces an ambitious modernization, then the Commission is very confident that the Postal Service can continue its 225-year tradition of innovation and adaptation to remain a valued and relevant enterprise to the nation it exists to serve." Commission Report at iii. We agree with those sentiments. The Commission also found, however, that the Postal Service is in "significant jeopardy" and that without "fundamental reforms, the risk of a significant taxpayer bailout or dramatic postage rate increases looms large." We agree with that assessment as well. Postal Reform is an absolute necessity if the Postal Service is to thrive in the 21<sup>st</sup> century.

On December 8<sup>th</sup> of last year, the Bush Administration called on Congress to enact postal reform and listed five principles that it believes should guide Postal Reform: Create Greater Flexibility, Remain Self Financing, Ensure Financial Transparency,

Ensure Accountability, and Implement Best Practices. We believe these five principles are an excellent foundation for postal reform.

1. **Flexibility.** The key to the future of the Postal Service is introducing more flexibility into the system on a wide variety of fronts. We have already discussed the postal infrastructure.

*Pricing and Product Flexibility.* While we accept the fact that some sort of pricing regulation is necessary for a monopoly, the present system is simply too burdensome. The Pricing system has to be made simpler, and the process faster.

*Flexibility to Close Post Offices.* We discussed this extensively above and feel current law is sufficient.

2. **Self-Financing.** We agree with President Bush that the Postal Service should be self-financed. We take pride in the fact that we have not received tax support since 1982. Our commitment to the Transformation Plan has proven that we are committed to continued cost reduction, increasing revenue, and postal self-sufficiency.

One way to help the Postal Service continue its self-sufficiency is to maximize the revenue potential of the nation's Post Offices. While delivery of letters, periodicals, advertising mail, and parcels is our core business, we feel there is so much more we can do. Our network of Post Offices provides a unique opportunity to expand non-postal services at our facilities while utilizing the infrastructure we have. We take pride in serving our customers, and we need to realize our full potential.

Over seven million customers visit our lobbies each business day. By offering appropriate products and services we can serve our customers and improve the Postal

Service's bottom line. We believe that there is great value in our network of over 26,000 post offices and we have not fully maximized that value.

We hasten to point out that we are not suggesting that the Postal Service should enter into competition with the private sector. Rather, we are suggesting that in rural areas where the private sector does not provide adequate services, the Postal Service could fill that gap. For instance, in my city of Horatio, I added a fax and copy machine to my Post Office because the closest photocopying shop was 20 miles away. That served our citizens well, had no effect on the private sector, and has paid for itself many times over.

*Ideas for Partnering with the Private Sector.* The LEAGUE has been working with Postal Headquarters to explore revenue-producing ideas, and has also been soliciting ideas from our Postmasters over the past year. The ideas I am presenting you with today can enhance the role the Postal Service plays throughout America. This can be done in many instances through partnerships with local businesses as well as in government-related services.

Let's look at some ideas for partnering with the Private Sector:

- Computers for access to the Internet and e-mail could be provided in rural and inner-city Post Office lobbies.
- ATM machines from area banking establishments could be installed in "unbanked communities."
- Coupons and advertising could be sold on the backside of postal receipts as many grocery stores do today.
- Fax and copy services could be offered in communities which currently don't offer that service.

*Ideas for Partnering with the Local, State, and Federal Government.* Another huge opportunity I see for the Postal Service is working with local, state, and federal governments. Currently, Post Offices serve as a resource to the Federal government by providing IRS tax forms, registration for Selective Service, wanted posters for the FBI, and Duck Stamp sales for the Department of the Interior. We could do more of that:

- Voter Registration. We could offer voter registration at post offices, making it easier for citizens to participate in the democratic process.
- Medicare/ Medicaid assistance. We could designate selected Post Offices, especially in rural America, as administering offices for the Medicare/Medicaid program. These offices could maintain a supply of equipment used by Medicare patients.
- Prescription drug delivery. We could also help with prescription drug delivery in rural areas. Holding the medicine for pickup at the Post Office could prevent its exposure to adverse weather conditions. Numerous customers in rural America receive prescriptions through the mail because there are no pharmacies nearby.
- We could also play a significant role in gathering census data in rural areas.
- We could serve the new Department of Homeland Security (DHS) as information centers, meeting places, storage centers for emergency items, or however deemed necessary by any of the agencies of DHS. We currently have Homeland Security information in our postal lobbies, but there is an even greater role that we could be playing.

These are just a few examples, and I am sure that with creative thinking we can come up with even more possibilities to partner with government and private industry.

**3. Transparency.** The President's Commission on the United States Postal Service stated that the Postal Service should set the standard for financial transparency by which all other federal entities are judged. Commission Report at 66. In furtherance of this goal, the Commission recommended that the Postal Service voluntarily comply with

applicable provisions of the major Securities and Exchange Commission (SEC) reporting requirements. Commission Report at 66.

I believe we can do this and that the Board of Governors has already started along this path. At the January 2004 Board of Governors meeting, Chairman David Fineman, said:

I am pleased to report that significant progress has been made. The 2003 Annual Report, which is posted on our Web site, includes enhanced disclosures in the footnotes and the Management Discussion and Analysis section. Also, in the First Quarter of Fiscal Year 2004, the Postal Service has begun to publicly report significant events, on our web site, in accordance with SEC Form 8-K reporting requirements. Additional progress will be achieved with the issuance of the Quarter 1, Fiscal Year 2004 Financial Report in February. Consistent with SEC Form 10-Q, this report will include an enhanced Management Discussion and Analysis section and expanded financial statements. . . . In the coming months we will complete plans to further enhance our annual financial reporting.

We believe that the Postal Service is well on its way towards achieving this goal.

**4. Accountability.** The Postal Service has certain monopoly products, and we understand that monopolies cannot have complete pricing freedom. The LEAGUE accepts that principle and understands that appropriate oversight is vital to the future health and well-being of Universal Mail Service and consumer welfare. The President's Commission recommended a three-person board that would have the power to identify the scope of Universal Service and regulate the products and services we offer. We oppose the idea of giving that much authority to three individuals.

**5. Implement Best Practices.** The LEAGUE believes that the current structure of the Board of Governors functions well. However, everything can always be improved,

and the LEAGUE would support any measures that ensured the Postal Service's governing body was better equipped to meet the responsibilities and objectives of an enterprise of the size and complexity of the Postal Service.

### CONCLUSION

Postal Reform is necessary to ensure the future well-being of the Postal Service. The five principles the administration released as a guide to postal reform are an excellent foundation. Our efforts today to create a viable "Pay for Performance" system are good. We are satisfied with it to date, although only time will tell.

We are concerned that poorly implemented postal reform could hurt rural America. At the beginning of the 21st century, rural America contains 80 percent of the nation's land, is home to 56 million people, and has a poverty level higher than urban America, according to the Department of Agriculture's Economic Research Service. [www.ers.usda.gov](http://www.ers.usda.gov). We believe Post Offices fulfill a need for this segment of the population by providing invaluable service that cannot be measured in dollars. We believe Post Offices must be measured by the service they provide, and not be judged solely on financial considerations of the Postal Service. The total cost of rural Post Offices is less than one percent of the Postal Service's Budget. Post Offices are critical to rural America and their role goes far beyond a postal function.

Let's work to make Post Offices not only a lifeline to customers but also a positive link to government at all levels. We think there is great value in our network of Post Offices.

The American flag is raised at by Post Offices every day, all across this country. The tradition of the Postmaster—starting with Ben Franklin in colonial times—is

connected to many freedoms enjoyed through the Constitution of the United States and the Bill of Rights. It supports and enables many of the rights given to us. Universal Service is important to all citizens, all Americans, in the equal opportunity it provides.

On behalf of the National League of Postmasters, I want to thank you for this opportunity to appear before you today. We look forward to working with Congress and this Committee to ensure that we pass responsible postal reform that will benefit the Postal Service and the customers we serve.

**TESTIMONY OF  
TED KEATING, EXECUTIVE VICE PRESIDENT  
NATIONAL ASSOCIATION OF POSTAL SUPERVISORS  
  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
  
FEBRUARY 4, 2004**

Thank you, Chairman Collins, for the opportunity to appear on behalf of the 36,000 postal supervisors, managers and postmasters who belong to the National Association of Postal Supervisors.

I am pleased to be here today to participate in this hearing to add our voice in support of Congressional passage of comprehensive postal reform. This hearing is an important step toward the achievable goal of passing a postal reform bill this year.

It is increasingly clear that we need to modernize the business model and the laws governing our nation's postal system. Electronic diversion and the steady decline in First-Class mail volume threaten the capacity of the Postal Service to support itself through postal revenues. The sooner postal reform comes about, the greater will be the Postal Service's ability to focus on its core business of delivering the mail with more flexibility and higher profits.

The President's Commission on the United States Postal Service rendered a valuable service in submitting a report that affirmed the need to transform the Postal Service to a more high-performing, results-oriented, transparent and accountable organization.



Some of the Commission's recommendations can only be implemented by Congress through statutory action. Others can be implemented by the Postal Service itself, without the enactment of new legislation.

The Postal Service, within its own current authority, can move ahead in implementing the Commission's recommendations that address: the improvement of its financial transparency; the downsizing of its workforce, post offices and plants; the elimination of redundant management structures; the improvement of labor-management relations; the broader development of private-sector partnerships; the expansion of retail services; and the procurement of new technologies that improve the processing, transportation and security of the mail. Many of the Commission's recommendations in these areas represent constructive contributions, and we encourage Congress to assure that the Postal Service follows-through on these recommendations.

The Postal Service cannot get the job done alone, however. Bold action by Congress is required to modernize the nation's postal laws, which have remained unchanged for more than 30 years.

My testimony today is devoted to four areas that should be embraced by postal reform: rationalizing the postal network; achieving effective labor-management relations; improving pay and performance incentives; and postal pension funding reform.

#### **Rationalizing the Postal Network**

We agree with the Postal Commission that the current network of post offices and plants requires streamlining – leading to the closure of unneeded facilities -- to assure that

universal service is delivered in the most effective and cost-efficient manner possible. Indeed, many of the nation's post offices are probably no longer necessary to fulfill the universal service obligation.

Streamlining or rationalization of the postal network should be carried out on a comprehensive basis under the authority and control of the Postal Service, in consultation with Congress and its stakeholders. The ultimate aim should be to arrive at cost savings, while preserving affordable universal service.

We see no need for the establishment of a Postal Network Optimization Commission (P-NOC), as recommended by the President's Commission, applying a base-closing approach toward unneeded postal facilities. A base-closing approach, with P-NOC preparation of recommendations to Congress to consolidate and rationalize the Service's processing and distribution infrastructure, will only delay and diffuse the decision-making that should remain in the hands of the Postal Service. The Postal Service is the best-equipped entity to arrive at the optimal number, locations and functions for mail processing and distribution functions, just as the Postal Service is similarly equipped to arrive at the optimal number, locations and functions for post offices.

Under current law, the Postal Service is not allowed to close post offices for economic reasons alone. The Commission recommended that such statutory restrictions be repealed and that the Service be allowed to close post offices that are no longer necessary for the fulfillment of universal service. We agree and urge the Congress to grant to the Postal Service the flexibility – and necessary accountability in fair and rational ways – to fulfill its universal service obligation in a cost-efficient and effective manner.

**Achieving Effective Labor-Management Relations**

Adversarial labor-management relations have been a persistent cause of problems in the operational efficiency, as well as the culture and work life, of the Postal Service. The General Accounting Office and others have repeatedly documented the degree to which poor communication, persistent confrontation and conflict, excessive numbers of grievances, and difficult labor contract negotiations have persisted within the Postal Service.

From my perspective, as executive vice president of one of the foremost management associations within the postal service, progress is being achieved in fostering better communication at the national level between the Postal Service and leadership of the craft unions and the management associations. However, progress in lower levels and in other areas continues to remain uneven, especially in the resolution of grievances.

The Postal Commission noted that “encouraging progress” is being made by the Postal Service and one of its unions in resolving grievances through use of a streamlined grievance process involving a “dispute resolution team” (DRT), comprised of representatives of management and the craft. We believe the DRT approach is best directed to the resolution of contract-related disputes in the field where they began, while workplace environment disputes are best resolved by mediation. We also are concerned by the growing reliance by dispute resolution teams of non-binding arbitration decisions as precedent. We encourage the Committee to continue its oversight over these endeavors.

**Improving Pay and Performance Incentives**

Over the past decade, the Postal Service has led the federal government in efforts to build incentive-based, performance-driven compensation systems. It has followed the lead of cutting-edge organizations in the private sector in using performance management systems to accelerate change and improve individual and organizational performance.

Incentive-based pay systems within the Postal Service currently apply only to the performance of executives, managers, postmasters, supervisors and other nonbargaining employees, i.e., management employees covered under the Executive-Administrative Schedule (EAS). More recently, the National Association of Postal Supervisors and the postmaster organizations have collaborated with the Postal Service in establishing a new pay-for-performance system, reshaping the EVA system first established in 1995, that better rewards teamwork, efficiency and service quality in a fair manner. Measurable and realistic goals are now being established at the unit, district and area levels as part of the new system. Progress is being made.

We agree with the Commission that it is time to expand merit-based pay to the entirety of the postal workforce, including bargaining-unit employees. The establishment of an incentive-based culture of excellence in any organization relies upon performance management systems that reach across the entire organization and cover all employees, not only those in the management ranks.

The Commission urged the Postal Service to undertake a study of performance-based compensation programs for both management and union employees and work with the unions and management associations to design and implement a performance-based compensation program. We are counting on the Postmaster General and the craft unions to negotiate some form of pay-for-performance at the bargaining table.

We also urge Congress to repeal the current statutory salary cap as it applies to the Postal Service (currently \$171,900) and authorize the Postal Service to establish rates of pay for top Postal Service officers and employees that are competitive with the private sector. Pay compression of salaries at the top, leaving little financial incentive for top and mid-level employees to take on new levels of responsibility, are hindering the Postal Service from recruiting the “best and the brightest” to top leadership positions. The cap should be lifted and the Postal Service should have the discretion to set compensation to attract and retain qualified individuals in the upper management ranks. Many Federal entities that require a capable, experienced CEO and other top officers already have pay-setting authority. These include the Tennessee Valley Authority, the Federal Reserve Board, the Public Company Accounting Board and the Federal Home Loan Bank Board.

Additionally, we encourage the Committee to take a critical view toward the necessity of establishing a new regulatory body, such as a Postal Regulatory Board, to assume authority over total compensation, scope of the monopoly, and definition of universal service, as well as other important policy and regulatory powers exercised by Congress, the Postal Rate Commission, and the Postal Service itself. Similarly, we question the wisdom of subjecting Postal Service pension and post-retirement health benefits to collective bargaining. This could significantly impact the vitality of the entire federal pension and retiree health benefit programs, and we caution the Congress to move very carefully, in full consultation with the postal stakeholder community, before proceeding in these areas.

**Reforming Postal Pension Funding**

We support the Postal Service's proposal to eliminate the escrow requirement so that the Service would not have to include \$3 billion as a mandated incremental operating expense in FY 2006. The Service cannot use the escrow funds unless Congress eliminates the escrow requirement or specifies by law how these funds may be used. If no action is taken, the unavoidable necessity to raise rates higher than necessary will come about. This can and should be avoided. We believe that improved and continued communication by the Postal Service with Congress over how it will address its long-term challenges and fund its retiree obligations should provide Congress the information it needs and the assurance to eliminate the escrow requirement.

We also support relieving the Postal Service of the burden of funding retirement benefits attributable to military Service, and returning that responsibility to the Department of the Treasury. We support the use of those savings to pre-fund retiree health benefits obligations for current and former employees, estimated at approximately \$50 billion. Under this proposal, the funds would stay in the Civil Service Retirement System (CSRS) and therefore would not impact the federal deficit.

Finally, we have recently been apprised of the difference in methodology used by the Office of Personnel Management (OPM) and the Postal Service in determining the Postal Service's CSRS obligation. We were very surprised to learn that according to the Postal Service's calculation, its obligation is 86 billion dollars less.

Thank you for the opportunity to present these views. We look forward to continuing to work with you, Chairman Collins, to secure sensible postal reform. I am available to answer any questions you may have.

February 4, 2004

## TESTIMONY OF JOHN CALHOUN WELLS

before the

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

Good morning. My name is John Calhoun Wells. I currently work as a labor relations consultant and commercial arbitrator, focusing on labor strategy and dispute resolution.

Before embarking on my latest career, I served from 1993-1998 as the Director of the Federal Mediation and Conciliation Service (FMCS), having been appointed to that position by President Clinton. The FMCS is an independent agency of the United States government responsible for dispute resolution, preventive mediation, and arbitration. The FMCS is involved in both the private and public sectors. As FMCS Director, I handled some of our nation's most difficult strikes and negotiations in those years, such as the 1997 United Parcel Service/Teamsters strike and the multi-year Caterpillar/United Auto Workers (UAW) strike in the 1990s. My service as FMCS Director also led me to establish major labor-management partnerships at such places as GTE with the Communications Workers of America

(CWA) and the International Brotherhood of Electrical Workers (IBEW) and at Kaiser Permanente with the AFL-CIO.

During my career, I've been active in both the public sector, the private sector, and to a lesser extent in academia. For example, early in my career I served on Capitol Hill as Special Assistant to U.S. Senator Wendell Ford of Kentucky, I was the first Secretary of Labor for the Commonwealth of Kentucky, and I have held the position of Senior Research Fellow at the John F. Kennedy School at Harvard. I have written a number of articles and publications on labor-management relations.

I have worked in the past with many large unionized companies and most major AFL-CIO affiliated unions. I continue to serve today as a labor strategy consultant for a number of the country's leading companies. Some of the major unions that I have worked with include the Teamsters, the UAW, the CWA, the IAM, the building trades unions, the Bakery, Confectionery, Tobacco Workers, and Grain Millers International Union (BCTGM), the PACE International Union, the United Mine Workers (UMW), the Service Employees International Union (SEIU), the American Federation of States, County, and Municipal Employees, several of the federal sector employee unions and, of course, the four major postal unions. Some of the major companies that I



have worked with include Alcoa, Anheuser-Busch, Boeing, General Mills, Mobil, Georgia Pacific, GTE, and Verizon. As such, during my career my involvement in labor relations issues spans both the public and private sectors, has involved government service at both the federal and state levels, and has enabled me to work with many of the country's leading labor professionals on both the union and management sides of the table.

Since 1993, I have also observed and participated in postal labor relations. First, as Director of the Federal Mediation and Conciliation Service, I became aware of a General Accounting Office (GAO) study on labor relations in the Postal Service. This report, issued in September 1994, was entitled "Labor-Management Problems Persist on the Workroom Floor." Shortly thereafter, Congressman John McHugh asked me to serve as the chair of a Labor Summit involving the highest levels of postal management and union leadership. I chaired a series of these summit meetings over several years. I will be pleased in a moment to share some of the results of this process and what it may say about the state of postal labor relations.

Second, I served as the mediator and interest arbitrator for the impasse that resulted from unsuccessful collective bargaining negotiations between the Postal

Service and the National Rural Letter Carriers' Association. Those proceedings resulted in a unanimous award being issued on February 3, 2002. As a result of my participation in these matters, I have been involved in postal labor issues for the past decade, both from the perspective of trying to facilitate a better relationship between the parties, as well as serving as the neutral in a labor negotiations impasse.

I appreciate the invitation to address this Committee and share some of the insights I have developed as a result of these experiences and how those insights relate to some of the recommendations of the President's Commission on the United States Postal Service that I understand this Committee is considering.

The Labor Summit process was a challenging and ultimately rewarding experience. As reported by GAO, the state of labor relations in the Postal Service in the early to mid-1990s was not good. My experience in attempting to chair the earliest summit meetings substantiated the accuracy of that finding. There was clearly a difference in the quality of the labor/management relationship among the four largest unions and the Postal Service. It was clear that the relationship between the Postal Service and some of the unions did not lend itself to cooperative

endeavors. During this time frame there seemed to be a bias against reaching collective bargaining agreements and resolving work place issues. This was evidenced by the failure from 1990 to 1998 to reach collective bargaining agreements with all but one of the four major postal unions. Also, grievances during this time numbered in the hundreds of thousands.

In my work with labor and management in many different industries over the years, I have found that it was important to not merely address existing grievances, but to identify the causative factors for those grievances. For example, a large number of grievances may be generated by ambiguous contract language, or you might get a lot of grievances in one geographic area because of an overbearing plant manager, or a contentious union steward, or a poor labor/management relationship. High numbers of grievances might also be the result of reassignments, dislocations or other actions that employees are unhappy about. If you don't identify the root causes of grievances, you can't resolve the causative factors. Simply put, emptying the tub is of little value without turning off the spigot.

Based on these principles, the summit served as a forum for the parties to better communicate with each other at the highest levels. At first, we focused on attitudinal

issues - like openness, communication, and mutual respect. As time passed, the summits addressed the future of the Postal Service and the risks its business and employees faced in an increasingly competitive marketplace. Commitments were in fact made to explore new dispute resolution techniques and develop joint contract interpretation manuals to address the root causes of grievances.

Whatever else might be said about the current state of labor relations in the Postal Service, it is clear to me that labor-management relations in the Postal Service has much improved from the beginning of the summit meetings to the present. This is demonstrated by the facts. Since 1998, the Postal Service and its unions have negotiated a number of voluntary agreements, and grievance numbers are falling. This is a very encouraging development.

For the future, I have specific thoughts about how the Postal Service should be able to continue the progress that has been made. First, it is critical that the parties adopt a philosophy that resolving problems, rather than litigating them, is the preferred approach. Legislative mechanisms that are put in place must promote that philosophy, not obstruct it. The parties need to be

encouraged to do it themselves and assume responsibility for their actions if they choose not to.

Second, the parties must be encouraged to operate in an atmosphere of open communication. They must recognize the fact that they all have a vested interest in the success of the Postal Service. Open communication is a predicate to an understanding of common interests, and it is these common interests that spur the parties to work together, rather than against one another.

Third, the parties should continue to pursue national-level joint contract interpretations. Particularly in an organization as large as the Postal Service, such joint interpretation manuals can foster an environment where problems are pre-empted rather than litigated. In fact, the Postal Service has worked jointly with the National Association of Letter Carriers to produce a Joint Contract Administration Manual, which has been successful in reducing grievance numbers. I understand that the Postal Service recently completed a similar Contract Interpretation Manual with the National Postal Mail Handlers Union and has been engaged with that union in joint training with managers and union officials. The Postal Service continues to work with the American Postal Workers Union to develop a similar manual for that unit.

Such efforts are, in my view, important and effective ways to lead the parties to a more constructive relationship.

Now, let me share with you my experience as the mediator and interest neutral in the collective bargaining impasse between the Postal Service and the National Rural Letter Carriers' Association. It is this experience in particular that gives me some insight to share with you concerning some of the specific recommendations of the President's Commission. I refer particularly to the recommendations labeled "W-2. *Collective Bargaining: Process Improvements.*"

Initially, let me emphasize how important and appropriate it is for the President's Commission and this Committee to focus on the process of collective bargaining in the Postal Service. Too often, the focus in particular situations is on the people involved rather than the process. And while it is true that no process can be as effective as it should be unless the people involved are willing to participate in a constructive way, it is also true that the dynamics of the process drive behaviors in both positive and negative ways. Process changes that this Committee may approve must be designed to outlive the current representatives of all the parties, union and Postal Service alike, and create an environment which

encourages them to reach agreements promptly and with a minimum of rancor.

With regard to the current collective bargaining and interest arbitration process, it is my opinion that the current process suffers from three basic problems. It is too formal, too adversarial, and too long. Changes to the process are needed which are designed to address these counterproductive characteristics of the present system.

First, the current process is too formal because it relies so heavily on litigation, with all the formality of judicial proceedings -- numerous witnesses, hundreds of exhibits, thousands of pages of testimony before a court reporter, rebuttal, surrebuttal and so forth. Such formalistic procedures by their very nature tend to eschew the practical in favor of the technical and often lead to time and resources being devoted to issues of form instead of substance, and to matters of marginal relevance rather than to those of fundamental significance. Litigation processes are no substitute for practical, real-world decision-making.

Second, the current process is too adversarial because the arbitrator serves in this judicial capacity and does not get the opportunity to meet with the parties informally and really mediate the issues which are at the heart of the

dispute. Instead of engaging in a mediation where the neutral can really encourage the parties to focus on the core issues in dispute, these overly adversarial proceedings are characterized by each party responding tit-for-tat in full litigation force regardless of the merit or significance of the matter at issue. The "us versus them" mentality is difficult to contain to the hearing room and too often spills over to impact the entire relationship.

Third, the protracted length of these proceedings is well documented and exacerbates the remaining underlying problems. As noted in the Commission Report, the last three impasse proceedings took between 13 and 17 months to finish. In fact, in the interest arbitration at which I was the neutral chairman, it took 14 and one-half months from contract expiration to the date of the issuance of the award. This is not a definition of efficiency - and it is a real problem.

For example, I recall that during the Labor Summit one of the participants told me that it was not possible to engage in new, constructive relationship building initiatives with the employer during the pendency of negotiations or dispute resolution procedures. Yet, the current process seems to encourage the parties to negotiate



for ninety days, and then start from square one in the dispute resolution process.

In reviewing the section of the Commission's report of the proposed changes to the collective bargaining process, I was impressed with the expressed goal of the recommendations - namely, to have a process where each step builds on progress already made, and emphasizes mediation and problem-solving. In other words, even when negotiations have not successfully reached a complete agreement, the impasse procedures should be designed to build on the progress made to date and discourage the parties from trying to revert to hard-line positions previously abandoned.

Interest arbitration, if it must happen, need not start from scratch with the parties posturing on issues and advancing positions that previously were the subject of compromise. The Commission's recommendations wisely seek to address this dynamic by creating a process that better integrates the various parts in one whole. As discussed below, I believe that the primary recommendations of the Commission in this respect represent a considerable improvement over the current process.

The primary recommendations of the Commission that I would like to address are the inclusion of a mediation

stage essentially in lieu of fact-finding and the use of the mediator as the interest arbitration neutral in a "med-arb" format. I speak to these matters from personal experience. I served as both mediator and then interest arbitration neutral in my role with the Postal Service and the National Rural Letter Carriers' Association. As such, I may be qualified to offer some knowledge and understanding about the value of having one neutral serve in both roles in the postal context.

In my judgment, there was great value to the mediation that preceded the interest arbitration with the Postal Service and the Rural Carriers' union because the parties engaged in frank and serious discussions during the mediation. As a result, while the mediation did not resolve the dispute, it did resolve some issues and focused the parties on the principal points of contention. Indeed, there were signed agreements on certain issues which enabled those matters to avoid litigation entirely. Further, the mediation had the effect of introducing realistic expectations to the parties.

Also, the mediation better prepared me to serve as the interest arbitrator. I was more familiar with the parties, more knowledgeable of the issues, and had a better understanding of what was most important.

I think it would have been an error to start all over again by bringing in a new neutral for the interest arbitration. The extent to which we had been able to narrow the issues and focus on principal points of contention might well have been lost. I think there would have been a tendency on the part of the parties to renew some of their prior arguments before a new neutral. In addition, a new neutral would have had to familiarize him- or herself with the parties in a way that inevitably would have used up their time and resources. My service in both roles allowed for a continuity that permitted each step in the process to build from the previous one rather than start over again.

In the end, I believe that the ultimate decision was a better and more informed one because I was able to serve in both roles. I note that even though there were significant changes in the contract affecting both parties, the interest arbitration award was a unanimous decision among all three arbitrators - the neutral chairman, as well as the management and union partisan arbitrators. We three arbitrators worked very hard together to accomplish a unanimous decision. Based on my considerable labor relations background, as well as my specific experience with the Postal Service, med-arb would be a valuable tool for resolving collective bargaining disputes in the Postal Service.

**TESTIMONY OF  
Dr. JAMES MEDOFF  
PROFESSOR OF LABOR AND INDUSTRY  
FACULTY OF SCIENCE AND ARTS, HARVARD UNIVERSITY  
before the  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
February 4, 2004**

Good morning. My name is James Medoff. I am the Meyer Kestnbaum Professor of Labor and Industry at Harvard University where I teach in the Economics Department of the Faculty of Arts and Sciences. Currently I teach two courses to senior-level students concentrating in economics. One is called "The Indebted Society" and deals with how debt has plagued the lives of most Americans and the other is called "The U.S. Labor Market" and deals with many of the topics you are discussing today. It is a pleasure and an honor to be with you this morning. I want to thank Chairman Collins and Senator Lieberman for inviting me to participate in this important hearing.

As you will note from my bio, labor economics, labor unions and labor markets have been central areas of interest in my academic career. I have written extensively on these topics. Two of my books may be of special significance for the subjects under discussion today. The first, a book entitled What Do Unions Do? that I wrote with my Harvard colleague Richard Freeman, examines the role played by unions in our economy. The second, a book entitled Employers Large and Small that I wrote with Charles Brown of the University of Michigan and Jay Hamilton of Duke University, explores the differences between large and small employers and how these differences affect labor market outcomes. These books are relevant not only because the Postal Service is among the largest employers in the world but also because its workforce is among the most highly unionized. I will draw on the research discussed in these books as I address the topic of this hearing.

I will also draw on my direct experience with postal collective bargaining. I have served as a paid consultant to the National Association of Letter Carriers since 1999. Although I cannot match the nearly 25 years of involvement of my fellow panelist Dr. Wachter, I have been employed on the labor side of collective bargaining in much the same capacity that he has been employed on the management side.

Of course, the reason you have asked me to appear today is not to discuss my books or to share stories of my consulting practice – although I am certainly open to all your questions. You asked me to comment on the workforce recommendations of the President's Commission on the United States Postal Service and to discuss the issue of postal pay comparability. I am happy to do both.

Let me begin with the recommendations of the Presidential Commission. I do not pretend to be an expert on all the subjects addressed, but I can comment on the Commission's recommendations in two areas, those pertaining to improvements to the collective bargaining process and those pertaining to the issue of pay comparability.

First, I was pleased that the Commission affirmed the value of collective bargaining and called for its retention. My research in What Do Unions Do shows unions give workers a voice in the workplace that not only helps them improve their economic well-being, but also has salutary effects for employers. The "Voice" function performed by unions gives workers a way of communicating with their employers about how companies are run. This helps them solve workplace problems and can improve operational performance. Indeed there is considerable evidence that unions can raise the overall level of productivity in firms. This allows the unionized firms to pay better wages and leads to greater job satisfaction for workers.

The "Voice" option provided by unions is often contrasted with the "Exit" option that is theoretically available to all workers. Workers can simply leave firms if they are unhappy. Exit is often the only choice for workers in non-union settings. Voice empowers workers but it is also often a boon to employers. Unionized firms experience less employee turnover than non-union firms and therefore incur lower costs for recruitment and retention. Lower turnover can be a significant benefit for both employees and employers.

So I think the Commission was right to endorse collective bargaining. That being said, I urge this Committee to be very cautious about accepting the Commission's other recommendations in this area. My direct experience with the existing dispute resolution process and the successful track record of this process in resolving impasses in collective bargaining over the course of three decades raise serious doubts about the wisdom of the Commission's recommendations.

As a participant in the 1999 interest arbitration hearings chaired by arbitrator George Fleischli involving the Postal Service and the National Association of Letter Carriers, I can say that I was extremely impressed with the quality of the process and the professionalism with which it was conducted. Over the course of several days of hearings, the parties did an outstanding job representing their respective interests -- the union was a strong advocate for the nation's letter carriers and postal management aggressively championed the interests of the postage paying public. Both sides called a wide variety of experts, including Dr. Wachter and myself, who provided in depth evidence and testimony on the key issues and both sides were capably represented by legal counsel for purposes of cross examination and rebuttal.

Two of the Commission's recommendations to "improve the process" seem particularly misguided. First, I think it would be a mistake to jettison the tripartite nature of the interest arbitration process by using three neutral arbitrators instead of allowing both sides to nominate an advocate arbitrator to take part in the process. No matter how accomplished they are, and no matter how many days of hearings they hold, neutral arbitrators cannot possibly understand the nuances of every issue of importance or fully appreciate the unique bargaining history of the specific parties involved in an interest arbitration proceeding. Advocate arbitrators can help clarify issues and can be an invaluable resource to neutral arbitrators grappling with complex issues. Second, mandating the exact procedures to be used in deciding interest arbitration cases by, for example, fixing a strict timetable in the law or requiring the use of Last Best Final Offer ("LBFO") arbitration, is unwise. The availability of the best arbitrators and, if I may be so immodest, the best expert witnesses, would be endangered by a hard-wired timetable. And LBFO arbitration may be appropriate in certain circumstances, but not in all circumstances. It works best when both sides voluntarily agree to it – as was the case when I participated in the Fleischli proceedings. But mandated LBFO arbitration would rob the process of flexibility, undermine the utility of advocate arbitrators (who often help shape the final details of decisions reached by neutral arbitrators) and more often than not lead one side or the other to see the results of interest arbitration as illegitimate. This would be very damaging to postal labor relations.

My advice on so-called "improvements to the process" is to be very careful and respect the desires of the parties involved. Any changes made should have the full backing of both postal management and postal labor.

Now let me turn to the issue of postal pay comparability. I have a strong sense of déjà vu sitting here with Dr. Wachter. In the hot summer of 1999 we were among a wide variety of experts called to address this issue. I note this because there is no right or wrong way of defining comparability and the Fleischli panel was exposed to wide variety of experts from a wide variety of disciplines with a wide range of opinions. There were economists like us, there were human resource and compensation experts and there were representatives of management and labor from other delivery companies like United Parcel Service. Indeed, both sides called managerial witnesses with UPS ties to testify on their behalf. So as you listen to us today, please do not make the silly mistake that you have heard the final word on comparability or that there is an absolute agreed way of defining it.

This leads me to my first impolite suggestion to this Committee: Stay out of this issue. Pay comparability is part of every labor negotiation in the country, whether it is in the private sector or the public sector. The very nature of collective bargaining in a market economy is to haggle over which jobs are comparable and wage decisions are best left to the negotiating partners. At various times in the past, the postal unions and postal management have achieved varying levels of agreement on pay comparability and when they haven't they have effectively used interest arbitration to sort it out.

I'll try to be more polite as I cover two other aspects of comparability – the merits of the debate on postal pay comparability and the Commission's proposal to subject this debate to the tender mercies of an outside regulator.

Is there a postal pay premium? I believe the answer is no. The postal unions, whose members almost all work full-time, quite reasonably look to the wages of full-time



workers doing similar work for private firms that are most comparable to the Postal Service. Postal pay appears to fall comfortably in the range of pay available to comparable workers employed by other national delivery firms. NALC, for example, points to the pay of uniformed delivery personnel who work for United Parcel Service and Federal Express. This is an entirely reasonable and appropriate definition of comparability.

Of course, as he did before the Fleischli board and the President's Commission on the USPS, Dr. Wachter will tell you he believes that a significant postal pay premium exists. I strongly disagree with his conclusion for a variety of reasons, some of which I outlined in a statement to the presidential commission. In the limited time available, I cannot go through all the details. With the Chairman's permission, I would like to submit that statement for the record and make a few points about the issue.

First, I do not agree that multivariate regression using data from a sample of workers is considered the best approach to measuring wage differentials. Few if any major companies use such an approach to set their pay levels and I don't know of a single collective bargaining agreement that has relied on the results of an econometric model to determine wage rates.

Second, I disagree with Dr. Wachter's model of comparability since it ignores or inadequately accounts for factors such as working conditions, industry structure and firm characteristics such as size that clearly influence wage levels. The model treats all industries as essentially comparable to the Postal Service, regardless if they are low-wage or high-wage industries or whether they operate nationally or locally. In other words, it treats the Postal Service as if it were just an "average" business. But, of course,

with nearly 750,000 workers and annual revenues approaching \$70 billion, it is nothing of the sort. And of course, the Wachter model cannot possibly capture the full range of job characteristics and working conditions that naturally influence pay levels in our economy. Compensation experts and labor relations professionals routinely take these factors into account.

Given the nature of Dr. Wachter's model, his conclusion that postal wages are 20 percent greater than those payable to otherwise similar workers in the private sector is entirely predictable. As I report in my book Employers Large and Small and as I discussed in my article "The Employer Size Wage Effect" in the *Journal of Political Economy* of October 1989, firm size is a critical determinant of labor market outcomes. Over time and regardless of industry or country, I have found that larger firms pay significantly higher wages to seemingly comparable workers than do smaller firms. In light of this, it is not at all surprising that a very large firm like the Postal Service – and others like UPS and FedEx for that matter – pay much better wages.

These higher wages are a good thing, both for workers and society on the one hand and for large firms like the Postal Service on the other. The reality is that better wages attract better workers -- better in ways that are not easy to quantify or measure -- and help large firms to attain and sustain superior levels of performance. It allows large firms to build stable, committed workforces with firm-specific skills that benefit the companies involved. Small firms may not be able to pursue this high-wage, high performance strategy, but most large firms clearly do so.

Using the standard of comparability suggested by Dr. Wachter would require the Postal Service to adopt pay practices that few large private sector companies employ. It would

necessarily leave the delivery of the nation's mail in the hands of a workforce characterized by lower wages, lower skills and higher turnover. I guess the question is: Who do you want to trust to carry out the important mission of the U.S. Postal Service, the high quality workforce we have today or a very different kind of workforce in the future?

Third, I have looked at the time series data on average postal employee wages over the course of the past three decades. What it demonstrates is that, adjusted for inflation, postal employees make almost the same in 2004 as they did in 1970 after Congress significantly boosted postal pay as part of the law that reorganized the Post Office Department into the Postal Service. In other words, after three decades of collective bargaining, postal employees have only been able to protect the real wage levels Congress enacted at that time. The implication of Dr Wachter's conclusion is that Congress established a comparability standard in 1970 and then purposely violated it. That makes no sense at all.

I presented the views I have shared with you today on the issue of pay comparability with the Fleischli board in 1999. I don't know how convincing my testimony was, but I do note with pride that the NALC prevailed in that arbitration.

The last point I'd like to address concerns where the Commission's recommendations and the issue of postal pay comparability overlap. The Commission has proposed to subject the results of postal collective bargaining to regulation by a new Postal Regulatory Board, which would also regulate the Postal Services rates and services. The PRB would be asked to rule on compliance with the pay comparability standard and order remedial action if it found a violation.

I have to say, I found this proposal to be mind-boggling. Such a proposal has no precedent in any other regulated industry that I know of and would effectively destroy the collective bargaining rights of postal workers. Subjecting labor agreements negotiated in good faith by the parties to review by the same body that regulates postage rates creates a built-in conflict of interest. A regulatory body charged with protecting the interests of postage rate payers would never be accepted as an impartial judge of postal pay comparability. Giving it the power to reduce pay levels or to mandate two-tier pay systems is a prescription for a postal labor relations disaster. It would politicize the process of collective bargaining and would almost certainly do serious damage to the interests of America's postal employees. I urge you to reject this recommendation out of hand.

I want to finish on a positive note. As I mentioned at the outset, each spring I teach a class for seniors at Harvard called "The U.S. Labor Market." Over the past few years, in the wake of my involvement with the NALC, I have added a unit on postal collective bargaining to the class to teach my students about the role of unions in the labor market. I believe it provides an excellent case study of the potential benefits of collective bargaining for all concerned. Postal workers enjoy middle-class pay, decent benefits and excellent job security while the American public gets an essential public service at affordable prices. That is an achievement that Congress can be justifiably proud of and one it should preserve.

**Testimony of  
Michael L. Wachter  
Before the Senate Committee on Governmental Affairs  
February 4, 2004**

My name is Michael Wachter and I am currently employed by the University of Pennsylvania as the William B. Johnson Professor of Law and Economics. I also serve as the Co-Director of the Institute of Law and Economics, whose primary purpose is to sponsor research and cross-disciplinary programs in the areas of law, economics, and business in the various schools at Penn. I served as the University's deputy provost from 1995 through 1997 and the University's interim provost in 1998.

I received my undergraduate degree from the School of Industrial and Labor Relations at Cornell University and my advanced degrees in Economics from Harvard University. I have been employed at the University of Pennsylvania since 1969. I have consulted for the Office of Economic Advisors, the Congressional Budget Office, the Board of Governors of the Federal Reserve System and a number of companies in the private sector. I have published extensively in the areas of labor economics, labor law and corporate law and finance.

**BACKGROUND**

My consulting work and testimony on behalf of the Postal Service has focused on the issue of wages and benefits in the Postal Service and how they

compare to the private sector. I first consulted for the Postal Service in 1981 in an interest arbitration proceeding involving the Postal Service and the Mail Handlers union. Since that time, I have testified in numerous other interest arbitrations. Of particular importance was my testimony in 1984 before the Kerr arbitration panel, which resolved the bargaining impasse between the Postal Service and the APWU and NALC. My most recent appearance in an interest arbitration setting was before the Goldberg panel in 2001 to resolve the dispute between the Postal Service and the APWU. In addition to testifying in postal interest arbitration hearings, my colleagues and I have published numerous articles in academic journals on the subject of postal wage and benefit comparability.

On April 29, 2003, I appeared before the President's Commission on the United States Postal Service. My statement to the Commission dealt mainly with the issue of wage and total compensation comparability of postal workers. I have reviewed the July 2003 Report of the President's Commission, with particular attention to the Commission's workforce recommendations contained in Chapter 6. The Commission has recommended (W-3) that the Postal Service's pension and post-retirement health care plans should be subject to collective bargaining.

Based on my research on postal labor issues, dating back now for 25 years, I believe the Commission's recommendation is both appropriate and necessary. My conclusion is based on several fundamental factors. First there is a sizeable postal compensation premium that violates the basic tenets of the Postal Reorganization Act and makes the Postal Service vulnerable to

competitive pressures. The finding of a postal compensation premium with respect to the private sector has been supported by all postal arbitrators who have addressed this issue since 1984. Second, as a consequence of this finding, the Postal Service and its unions have operated in an environment of "moderate restraint" with respect to wages, resulting in a decline in the postal wage premium. Third, while there has been moderate restraint on postal wage growth, there has been no such moderation with respect to the growth in postal benefits. Finally, in today's increasingly competitive environment, the Postal Service needs both compensation restraint and flexibility to meet its mandate of providing universal service.

#### **COMPARABILITY**

The starting point for my analysis of postage wages and benefits is the Postal Reorganization Act (PRA) which states that the U.S. Postal Service shall "maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy." 39 U.S.C. § 1003. This comparability standard is a foundation upon which the Postal Service and its unions can base their negotiations. When necessary, it is also a foundation that an arbitration panel can rely upon to resolve deadlocks.

The PRA mandate for compensation and benefits comparable to the private sector is a logical consequence of the fundamental purpose of the statute: protecting the public interest in the provision of efficient services in certain critical industries. The Postal Service is unusual compared to many regulated firms

since it is highly labor intensive, rather than capital intensive. Currently, nearly 80 percent of postal cost is compensation related. The vast majority of these compensation costs are associated with employees who are represented by the various unions of the Postal Service. This makes labor costs, both wages and benefits, a dominating issue for maintaining a healthy competitive position and protecting the interest of postal consumers. For the Postal Service, controlling costs turns on paying wages and benefits that are comparable to those paid in the private sector.

The Commission's recommendation that benefits be included as part of the collective bargaining process logically follows the statute's goal of comparability with the private sector. In my view, it would be equally appropriate to include benefits as part of the collective bargaining process regardless of whether USPS total compensation was lagging behind or surging ahead of total compensation in the private sector.

My research in this area, however, in conjunction with Drs. James Gillula and Barry Hirsch, has determined that there is a postal compensation premium. As recently as the interest arbitration with the APWU in 2001, I identified a wage premium of 21 percent and a total compensation premium of 34 percent. In other words, unionized postal workers receive 34 percent more in compensation than is received by comparable private sector workers. A significant portion of the postal total compensation premium can be attributed to a sizeable benefits premium and a significant portion of that benefits premium is associated with benefits over which the Postal Service has no control.



**COMPETITIVE ENVIRONMENT**

The Postal Service finds itself operating in highly competitive product markets. Because the Postal Service is so labor intensive, its ability to remain competitive depends in large measure on controlling its labor costs. This, in turn, can be achieved by adhering to the comparability standard in wages and benefits.

A review of postal product market developments over the years highlights the increasingly competitive environment in which the Postal Service competes. One can observe fundamental shifts in postal volumes during this new century. Total postal volume reached its peak in 2000 with nearly 208 billion pieces. In each of the past three years, however, total mail volume has declined. In 2003 total mail volume was slightly more than 202 billion pieces. It is true that mail volume is affected by the economy and by fluctuations in the business cycle. Although the most recent recession officially ended in November 2001, mail volume recovery has yet to take place. This is particularly troubling in the case of First-Class Mail.

After reaching a peak of about 104 billion pieces in 2001, First-Class Mail volume fell to 99 billion pieces in 2003. The Postal Service expects the volume decline trend to continue in 2004. Clearly, there are competitive market forces in play that are influencing this decline. Most notable is the increasing impact of technological competition on First-Class Mail volumes. This competitive reality for First-Class Mail is taking place at the same time as the Postal Service's delivery network continues to expand. Historically, First-Class Mail growth

helped pay for the increase in the delivery network, the critical foundation upon which universal mail service is based. This is no longer the case.

In addition to the reality of technological competition for First-Class Mail, the Postal Service faces stiff competition for its other products. Although there is anticipated growth in Standard Mail, it should be noted that this is a low-margin product. Healthy growth is no longer expected for Priority Mail and Express Mail. These had been both rapidly growing and high-margin products; however, both now face significant competition. There has been recent growth in the Package Services, but this class of mail operates in highly competitive markets as well. Finally, the Postal Service expects that volumes in both International Mail and Periodical Mail will continue to decline.

For the first 30 years since postal reorganization, the Postal Service was seemingly spared product market erosion. It is clear, however, that the positive mail volume trends observed during the first three decades since postal reorganization are no longer present. This has led to a decline in postal employment. When postal volume is increasing strongly, postal employment grows with it. When postal volume is stagnant, postal employment tends to decline. From a high of nearly 800,000 career employees in 1999, I note that the career complement in 2003 was less than 730,000. The decline in career complement reflects the restrictive competitive conditions confronting the Postal Service in 2004.

The competitive threat to future mail volume growth will place increased stress on the Postal Service's mandate of providing universal mail service. The

assumption that mail volume growth will fund an increasing delivery network is at risk. There are fundamental changes occurring in the USPS product markets that will prevent the Postal Service from relying on sustained volume growth as it did during the first 30 years following reorganization.

The fact that the Postal Service finds its products in increasingly competitive markets means that large wage and benefit premiums will not be sustainable. Therefore, it is imperative that the Postal Service bring its compensation costs more in line with what is paid in the private sector of the economy for comparable levels of work.

#### **THE POSTAL SERVICE WAGE PREMIUM**

I have testified extensively in numerous postal interest arbitrations concerning the existence of a postal wage premium. I have also published extensively on this topic in academic journals with my colleagues, Drs. Gillula and Hirsch. We have concluded, as well as have numerous interest arbitrators, that a substantial wage premium exists. As recently as the 2001 proceedings before the APWU interest arbitration panel, this conclusion was reaffirmed.

I base the finding of a wage premium on a detailed analysis of several sources of information. First, the wage component of the total compensation premium is estimated from the Current Population Survey (CPS) of the Bureau of the Census. This survey is the basic household survey of the United States. Using random sampling techniques, the CPS collects a complete set of labor market information on approximately 85,000 full-time, nonagricultural wage and

salary workers annually. The methodology used to estimate the premium, multivariate statistical analysis, is the generally accepted method for estimating wage differentials. In the 2001 APWU interest arbitration, I estimated the wage premium to be 21.2 percent using the above method.<sup>1</sup>

Second, beginning in 1995 I expanded the CPS wage comparability analysis to include additional variables from the Dictionary of Occupational Titles (DOT) that measure the skill requirements and working conditions associated with specific occupations. The DOT variables are good complements to the CPS because the data are based on evaluations of the job and the job requirements rather than the individual worker who fills the job, as is true of the CPS. Including DOT skill and working condition variables yields a higher estimate of the wage premium.

Third, in the APWU interest arbitration in 2001 my colleagues and I incorporated the Department of Labor's new Occupational Information Network, known as O\*NET. The O\*NET is described by the DOL as being a comprehensive database system for collecting, organizing, describing, and disseminating data on job characteristics and worker attributes. Our analysis using O\*NET reinforced previous conclusions based on the DOT; namely, that a substantial wage premium exists. And this wage premium exists after accounting for job-specific skills and working conditions.

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<sup>1</sup> "Wage and Benefit Comparability of U.S. Postal Service Clerks to the Private Sector," by Wachter, Hirsch, Gillula, October, 2001, p. 2. Arbitration Proceedings, USPS and American Postal Workers Union, AFL-CIO. Based on an annual wage for postal clerk craft employees of \$37,582, the 21.2% wage premium translates into an annual additional cost of \$7,180 per employee.

Finally, I have relied on internal USPS sources of information from three distinct areas to help determine the existence of a postal wage premium. First, the wage premium findings described above were corroborated by Postal Service data that revealed that there is a large increase in salary, a new hire premium, when employees are hired into the Postal Service. The New Hire Survey that is conducted allows us to estimate wage differentials between postal and private sector jobs based on the wage change of workers when they enter the Postal Service. In this way, postal workers are compared to themselves in their prior employment. Based on a sample of postal clerk employees hired during 1999-2000, my colleagues and I found a 31.8 percent new hire wage gain for APWU clerks.<sup>2</sup>

Second, I have confirmed that the Postal Service finds it easy to hire qualified workers to fill job vacancies. An analysis of postal employment register data shows that there is a large applicant queue that confirms the attractiveness of postal jobs, even in high-wage metropolitan markets.

The third internal data source is the USPS voluntary quit rate. Quit rates across all bargaining units are low, thus further supporting the conclusion that there is a large wage premium. In the 2001 interest arbitration with the APWU, I testified that the FY 2000 quit rate among clerks was only 1.9 quits per hundred workers per year, comprising a 1.2 percent quit rate for full-time employees and a 5.0 percent quit rate for part-time employees.<sup>3</sup> In sharp contrast, the annual quit rate in the private sector, for both full-time and part-time workers (it is not

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<sup>2</sup> Ibid., p. 4.

<sup>3</sup> Ibid., p. 9.

available separately), was 26.3% in 2001, the first year such data were available.<sup>4</sup>

These various external and internal sources of information, all point in the same direction: there is a significant postal wage premium.

### **THE POSTAL SERVICE BENEFITS PREMIUM**

The Postal Service's benefits are also far in excess of benefits paid in the private sector. I have testified in interest arbitration proceedings on the presence of a sizeable postal benefits premium. This conclusion is based on a comparison of private sector benefits versus postal benefits. As I previously mentioned, I found a 21.2 percent wage premium during the 2001 interest arbitration with the APWU. This wage premium was similar to the one that I estimated during the 1999 interest arbitration with the NALC.<sup>5</sup>

The wage premium cited above does not include benefits. I was able, however, to determine a benefits premium by analyzing private sector benefit figures collected by the Bureau of Labor Statistics (BLS).

Benefits are usefully divided into two categories: paid leave, which is wage related, and nonwage-related benefits associated with pension and insurance benefits. The nonwage benefits include pension and retirement plans, USPS contribution to the Thrift Savings Plan, Social Security, Medicare, Health Benefits, and Life Insurance. To calculate the benefits premium I relied on the

<sup>4</sup> See U.S. Bureau of Labor Statistics, *Job Openings and Labor Turnover Survey* (JOLTS).

<sup>5</sup> "Current Evidence on the Comparability of U.S. Postal Service Wages and Benefits to the Private Sector," by Wachter, Hirsch, Gillula, August 4, 1999, p. 1. Arbitration Proceedings, USPS and National Association of Letter Carriers, AFL-CIO.

BLS series "Employer Costs for Employee Compensation (ECEC)" and also obtained the USPS compensation costs in the same ECEC format. I testified during the interest arbitration with the APWU in 2001 on the benefits premium and found this premium to be 65.8 percent. The combination of the benefits premium along with the 21.2 percent wage premium resulted in a total compensation premium of 33.7 percent.<sup>6</sup>

I should note that the benefits premium and the total compensation premium referenced above do not include retiree health benefit costs. Clearly, these postal premiums would be even higher had retiree health benefits been included in our calculations. Since the ECEC private sector data source does not include retiree health benefit expenses, I excluded these benefits from the Postal Service side of the compensation equation. There is ample evidence that the provision of retiree health benefits is declining in the private sector.

By any objective measure, the USPS total compensation premium is far outside the boundaries of the PRA comparability requirement. The fact that not all benefits are subject to collective bargaining contributes, in my opinion, to the size of the significant total compensation premium.

In 2003 Postal Service retirement costs amounted to \$5.9 billion, while costs for health benefits for retirees accounted for an additional \$1.1 billion. Stated another way, \$7 billion of benefits costs are currently not subject to the collective bargaining process. Because of the importance of these benefits the President's Commission recommended the following:

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<sup>6</sup> Op. Cit., p. 9.

- The Postal Service should be authorized to negotiate Federal Employee Retirement System eligibility requirements and employee contributions;
- The Postal Service should be authorized to negotiate the eligibility and retiree contribution requirements for the post-retirement health care component of the Federal Employee Health Benefit Program, specifically for future Postal Service retirees; and
- The current statutory requirement that “{n}o variation, addition, or substitution with respect to fringe benefits shall result in a program of which on the whole is less favorable to the officers and employees than fringe benefits in effect on {July 1, 1971}” should be repealed.

In my opinion, these Commission recommendations are appropriate.

#### **ARBITRATION RESULTS**

My analyses and arguments have been presented at various times in postal interest arbitration proceedings dating back to 1984. Postal interest arbitrators have consistently concluded that a material wage premium does in fact exist. Based on their analysis of the evidence in 1984, the Kerr arbitration panel reviewing APWU and NALC compensation found that “discrepancies in comparability” existed and indicated that their award was intended to reduce the pay discrepancies that had arisen since the PRA by one percentage point per year over the life of the 1984-87 contract. Chairman Kerr characterized this intended rate of closing of the gap as “moderate restraint,” and went on to comment that since the premium “did not develop overnight ... it would be a mistake to try to correct [it] too hastily.” In looking ahead, Chairman Kerr stated that a three-year closing of the premium at one percentage point per year “does



not dispose of the problem. Moderate restraint may also be necessary in future years to approximate the guideline of comparability.”<sup>7</sup>

Since the Kerr Award, the Postal Service has attempted to apply the principle of moderate restraint to its wage increases. To do this, the Postal Service has compared its wage increases to the Employment Cost Index (ECI) for all private sector workers, and has used ECI-1% as a measure for approximating moderate restraint on wages.

The Mittenthal interest arbitration panel, also reviewing APWU and NALC compensation, reached the same wage conclusion in 1991: “Notwithstanding the efforts of the Kerr board to establish a principle of ‘moderate wage restraint,’ a wage premium still exists. Hence, the need for continued ‘moderate restraint’ still exists.”<sup>8</sup>

In 1995, after reviewing evidence put before him in the NALC interest arbitration proceedings, Chairman Stark acknowledged the need for continued moderate restraint: “In reaching the conclusions set forth here, I have recognized the need, particularly in light of automatic grade, step, and COLA increases, for wage increases even more modest than those contained in the award of the Mittenthal Board.”<sup>9</sup>

Furthermore, in the Mail Handlers Union interest arbitration proceedings in 1996, Chairman Vaughn concluded: “I am persuaded by the evidence presented

<sup>7</sup> Clark Kerr, Chairman, “Opinion and Award,” Arbitration Proceedings, United States Postal Service and National Association of Letter Carriers, AFL-CIO, and American Postal Workers Union, AFL-CIO. December 24, 1984.

<sup>8</sup> Richard Mittenthal, Chairman, “Opinion and Award,” Arbitration Proceedings, United States Postal Service and NALC and APWU, June 12, 1991, pp. 16, 18.

<sup>9</sup> Arthur Stark, Chairman, “Opinion of the Chairman,” Interest Arbitration Proceedings, United States Postal Service and NALC, p. 38.

by the Postal Service that its NPMHU-represented employees continue to enjoy a wage premium compared to their counterparts in the private sector ....<sup>10</sup>

In 2001, the APWU interest arbitration panel chaired by Stephen Goldberg found the existence of a wage premium based on the fact that Postal Service jobs are highly sought after, that applicant queues are long, that there is a substantial new hire premium, that quit rates are extremely low, that postal employees have job security, that employees have an extraordinary benefits package, and that wages have kept pace with inflation. Based on the above, Arbitrator Goldberg stated: "In concluding that there exists a Postal Service wage premium, I join a long list of arbitrators in prior USPS interest arbitrations who have reached the same conclusion."<sup>11</sup>

#### **TRACKING THE GROWTH OF POSTAL WAGES AND BENEFITS**

A component of my research on postal wages and benefits has been to track the growth rate of postal wages and of postal compensation compared to growth rates found in the private sector. This analysis has relied on the BLS Employment Cost Index (ECI) as a measure of private sector wages and benefits along with payroll data supplied by the Postal Service as a measure of postal wages and total compensation.

When I performed this analysis for the APWU interest arbitration in 2001, I found that for the 16-year period, 1984 through 2000, wages for postal clerks increased at an average annual rate of 2.9 percent, while private sector wages

<sup>10</sup> M. David Vaughn, Chairman, "Decision," Interest Arbitration Proceedings, United States Postal Service and National Postal Mail Handlers Union, April 24, 1996, p. 7.

<sup>11</sup> Stephen B. Goldberg, Chairman, "Supplemental Opinion Dealing with Economic Issues, Interest Arbitration Proceedings, United States Postal Service and APWU, January 11, 2002, p. 9.

as measured by the ECI increased at an average annual rate of 3.6 percent. Thus, since the 1984 Kerr Award identified the existence of "discrepancies from comparability," the Postal Service achieved a closing of the wage gap with the private sector of 0.7 percent per year. This evidence of some closing of the wage gap is consistent with other tracking analyses I have performed. Accordingly, the collective bargaining process has permitted some moderate restraint of the APWU wage premium.

Our APWU tracking analysis, however, further shows that moderate restraint with respect to wages has had little impact on trends in overall postal compensation relative to the private sector. The reason is quite simple—postal benefits have grown at a rate significantly exceeding benefit growth rates in the private sector. As shown in our report to the APWU interest arbitration panel, when comparative wage and benefits costs are both considered, the Postal Service's average annual total compensation growth rate (3.6 percent) was about the same as the growth rate experienced in the private sector (3.8 percent). In short, while there has been some degree of moderate restraint on wages, there has not been restraint in the growth of the costs of benefits. As a result, there has been no reduction in the total compensation premium.

The above information covered the APWU bargaining unit and was reflective of data through 2000. I have tracked the growth rates of postal wages and of total postal compensation for the major postal bargaining units through the fourth quarter of 2003 in order to determine if the trends previously observed for the APWU hold true for the combined postal bargaining units.

The patterns observed during the past 20 years with respect to APWU wage growth also apply to the combined major bargaining units. During the past 20 years postal wages have grown at an average annual rate of 3.0 percent. For the private sector as a whole, average annual wages have increased by 3.5 percent per year. Thus, there has been a modest annual closing of the wage gap of 0.5 percent per year. As with the data I presented on APWU wage growth to the APWU interest arbitration panel, there has been moderation of bargaining unit postal wage growth compared to the private sector.

Although there has been some moderation of postal wage growth, there has been no such moderation on the benefits side. During the past 20 years, total USPS compensation costs (3.9%) have grown at virtually the same average annual rate as observed for total compensation growth in the private sector (3.8%) of the economy. The collective bargaining and interest arbitration environments have assisted in the moderation of postal wage increases during the past 20 years. This has not been true for postal benefits.

It should be noted that some postal benefits are already subject to collective bargaining. As an example, the Postal Service and its unions may negotiate for paid leave benefits as well as for the employer/employee shares for health benefit premium costs for current employees. However, over \$7 billion (14 percent of total compensation) of retirement and retiree health benefits expenses are outside the collective bargaining process. The President's Commission would allow the parties to negotiate over these benefits. The lack of flexibility in dealing with these non-wage benefits places the Postal Service at a competitive

disadvantage with other firms in the private sector of the economy. The inability to address these benefits is also at odds with the principles underlying the comparability standard of the PRA.

My experience in observing a moderating postal wage growth during the past 20 years shows that the collective bargaining and interest arbitration process can make positive progress in allowing the Postal Service to conform to its comparability mandate. Based on this result, I recommend that the same collective bargaining and interest arbitration process be used to determine all benefits, including retirement and retiree health benefits.

#### **COUNTER ARGUMENTS**

The primary response of the unions in interest arbitration to the econometric evidence finding a wage and total compensation premium, described above, has been to challenge the choice of the group to whom postal workers should be compared. In our work my colleagues and I adopt a comparison group of full-time private sector workers with individual and job characteristics similar to those among postal workers. Bargaining unit postal employees are, thus, compared to both union and nonunion workers, to workers in large and small firms, and to workers in large and small establishments. The implicit and sometimes explicit weighting given each group corresponds to their distribution among the private sector comparison group of workers. This, in our view, is consistent with the statutory provision in the PRA which mandates that comparability broadly be maintained to the "private sector of the economy."

The principal areas of disagreement with the economists for the unions have centered on specification issues regarding union status, employer size, and race and gender. In other words, while we compare postal employees broadly to the private sector, the unions propose a standard whereby postal wages are compared implicitly to wages for private sector workers who are white male, unionized, and in large firms.

One of the most contentious issues in postal arbitration hearings has been the attempt by the unions to use a "union standard" of comparison versus our use of a mixed union and nonunion private sector standard. The unions have proffered a standard in which the wages of postal workers are compared to unionized private sector workers, treating union status as if it were a transferable skill variable such as schooling. The principal rationale underlying this claim is the assertion that higher union wages in the private sector are entirely capturing otherwise unmeasured worker skills so that the union wage premium is essentially zero. The result of these assumptions is to compare the wages of postal workers only with the wages of unionized workers in the private sector.

These assertions are testable. The size and nature of the union wage advantage have been tested extensively in the academic literature. Evidence from the private sector overwhelmingly rejects the contention that there is no union wage premium for union workers relative to nonunion workers of similar skill. Our evidence from the New Hire Survey and the data from the DOT also reject such a conclusion for Postal Service workers and jobs.

Our methodology does not employ either a union-only standard or a nonunion standard. Instead, we compare postal workers to a mix of union and nonunion workers across all private sector industries, where the mix is calculated using weights based on private sector employment of nonprofessional and nonmanagerial union and nonunion workers. Such a private sector comparison comports closely to the standard of opportunity cost wages and economic efficiency, as well as to the PRA comparability mandate.

There has also been an attempt by the unions to focus their econometric evidence on wages paid by large firms. Our treatment of employer size is similar in principle to our approach to union status, which has the effect of comparing postal workers to private sector workers across all firm and establishment size categories, with an implicit weighting equal to that of the private sector. It is generally recognized in wage-differential studies that if one is going to control for employer size, it is appropriate to control for both firm and establishment size, since they may measure distinct wage determinants and each has an independent effect.<sup>12</sup> All postal employees work for a large firm, and the unions' analysis controls for firm size. However, the establishment size for postal employees is not particularly large, and the unions' analysis does not account for establishment size. When one includes both firm and establishment size measures in the wage regression, the postal premium is little different than when the size measures are excluded.

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<sup>12</sup> See, for example, Charles Brown and James Medoff, "The Employer Size-Wage Effect." *Journal of Political Economy* 97 (October 1989): 1027-59, and Kenneth Troske, "Evidence on the Employer Size-Wage Premium from Worker-Establishment Matched Data." *The Review of Economics and Statistics* 81 (February 1999): 15-26.

Some of the unions claim that postal wages ought to be compared only to those of private sector white males. This is based on the contention that lower wages in the private sector for women and minorities results entirely from labor market discrimination and that, absent such discrimination, wages for all workers would rise to the level of white males. Besides ignoring the PRA mandate, the argument is flawed on both theoretical and empirical grounds. The unions' white male standard assumes that wage differentials by gender and race are due *entirely* to labor market discrimination. Numerous studies, however, show that some portion of these wage differentials are due to premarket factors, such as education and experience, which the workers bring to the labor market. Moreover, it assumes that in the absence of discrimination, all private sector wages would rise to the level of white males. However, there is little to suggest that the average wage in the economy would increase by much absent discrimination.

In some cases, the unions have used two or even all three restrictions at once. We have throughout the various interest arbitration proceedings countered the union's various attempts to narrow the standard of comparability by relying on the results of academic theory and evidence.

Some postal unions have suggested that the proper comparability standard should be tied to specific firms, such as United Parcel Service and FedEx. To suggest that two firms should be used to determine wage and benefit comparability for nearly 700,000 postal employees is not sensible. The Postal Reorganization Act does not direct the parties on the comparability issue to look



at only one or two high-wage companies, or only firms in selected high-wage industries. Rather, the PRA compels the parties to “maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy.”

Postal arbitrators have acknowledged that wage premiums exist for postal bargaining unit employees. The existence of a postal wage premium served as a predicate for the “moderate restraint” findings of the 1984 Kerr interest arbitration award covering the APWU and the NALC. Subsequent postal arbitrators have also found the existence of a postal wage premium. These arbitrators include Richard Mittenthal (APWU/NALC) in 1991, Rolf Valtin (APWU/NALC) in 1993, Arthur Stark (NALC) and Jack Clarke (APWU) in 1995, David Vaughn (Mail Handlers) in 1996, and Stephen Goldberg (APWU) in 2001. To address the comparability issue these arbitrators have provided for the following modifications to the collective bargaining agreements: New lower entry steps, increased ratios of part-time employees, new employee categories, increases to the employee share for health benefits premiums, reductions in the postal night shift differential, delayed cost-of-living (COLA) payments, lump-sum payments in lieu of COLA and general wage increases, and modest general wage increases during the past 20 years.

**CONCLUSION**

The Kerr panel in the interest arbitration of 1984 recognized the need for moderate restraint in postal compensation growth. Although there has been some moderation of postal wage growth, there has been no such moderation in the growth of postal benefits. This has resulted in the continuation of a sizeable compensation premium. In today's increasingly competitive markets, the Postal Service must insure that its wages and benefits meet the comparability mandate in the Postal Reorganization Act.

Consequently, I believe that the Commission's recommendation that retirement and health benefits for retirees should be part of the collective bargaining process is both appropriate and necessary. The Postal Service and its unions should be able to address all labor cost components, not only wages but also benefits, in future collective bargaining proceedings.

STATEMENT OF THE HONORABLE DAN G. BLAIR  
DEPUTY DIRECTOR  
OFFICE OF PERSONNEL MANAGEMENT

before the

COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

on

THE REPORT OF THE PRESIDENT'S COMMISSION  
ON THE UNITED STATES POSTAL SERVICE

FEBRUARY 24, 2004

Madam Chairman and Members of the Committee:

I am pleased to be here today on behalf of the Director of the Office of Personnel Management, Kay Coles James, to discuss the Report of the President's Commission on the United States Postal Service.

We wish to commend the Commission for its service to the President, the Postal Service, and all of the citizens of this great nation. Its report is the result of a monumental effort. While no such blueprint can be adopted without careful examination and adjustment, it represents a thoughtful review of a complex subject, and an excellent starting point to address the nation's postal needs. Their efforts laid the groundwork to aid Congress and the Administration as we begin to evaluate what changes are necessary to respond to the rapidly fluctuating demands of the Postal Service in the 21<sup>st</sup> century.

Before I go on to specifics, I would be remiss if I failed to express our admiration for the tireless efforts of Postmaster General Jack Potter in his leadership of the Postal Service. Last November, he testified before you that he looked forward "to working with this Committee and with the Congress to identify the business model that will enable the Postal Service to serve everyone in America, today and far into the future."<sup>1</sup> We look forward to participating in support of that goal, and are confident that our combined efforts will be rewarded with success.

Your invitation asked OPM to address three items related to the Commission's Workforce Recommendations – performance-based compensation systems, collective bargaining for pension and retiree health benefits, and funding of accrued military service retirement benefits for postal employees covered by the Civil Service Retirement System.

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<sup>1</sup> Testimony of John E. Potter, Postmaster General/CEO United States Postal Service, before the Committee on Governmental Affairs, United States Senate, November 5, 2003, [www.usps.com/communications/news/speeches/2003/sp03\\_pmg1105.txt](http://www.usps.com/communications/news/speeches/2003/sp03_pmg1105.txt).

Madam Chairman, let me address the first of these items regarding performance-based compensation systems. The President's Commission suggested that:

The Postal Service should undertake a careful study of performance-based compensation programs for both management and represented employees, and it should work with the unions and management associations to design and implement a performance-based compensation program that is meaningful to Postal Service employees and assists the Postal Service in meeting its productivity and service quality goals.<sup>2</sup>

The Administration strongly supports performance-based pay systems, and Director James whole-heartedly supports the Commission's recommendation in this regard. Performance-based pay systems are a critical element of the President's Management Agenda.

Performance-based compensation systems have been around for decades in the private sector, and experimentation and evaluation of such systems within the Federal government dates at least back to the late 1970's, with Federal personnel demonstration projects leading to agency-wide efforts in the Federal Aviation Administration and the Internal Revenue Service. Virtually without exception, experience under these systems has shown that they can work. It takes preparation and commitment, but where these exist, organizations (including many in the Federal Government) have been able to make meaningful, performance-based pay distinctions in a way that is fair and equitable and sends the right message to those who demonstrate the highest performance.

To be successful, the performance plans these systems are based on should include the following key features:

- o Establish expectations up front;
- o Deal with demonstrable results; and
- o Be linked to an Agency's Strategic Plan and Annual Performance Plan.

So, when an individual is evaluated one will be able to answer the question, "This is what I expected of you, this is what you did. So how did they match up?"

Additionally, pay-for-performance plans can serve as a recruitment tool for organizations by attracting those job seekers who are turned off by the idea that their performance will not be rewarded. It can be an incentive for "hard chargers" to join an organization.

Our ability to successfully introduce these performance-based pay systems into Government hinges on our measurement and assessment of performance. Measures must be results-oriented – as opposed to process – based. This is a natural evolution of the Government Performance and Results Act which led to improved organizational performance metrics and tying agency performance to Annual Plans.

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<sup>2</sup> *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service*, Report of the President's Commission on the United States Postal Service (Washington, D.C. 2003) p. 177

Madam Chairman, we believe that this can be done. We believe agencies can develop compensation systems which make meaningful distinctions among performers.

Last year, the President began building the foundation by proposing a pay-for-performance system for the Federal Government's Senior Executive Service (SES), as well as a special "Human Capital Performance Fund" to reward top-performing front-line Federal employees with base pay increases. Thanks in large part to the efforts of this Committee, Congress passed both initiatives, and in so doing, established a number of excellent "design principles" that will govern implementation.

Madam Chairman, with your help, we are clearly moving from experimentation to implementation, and you can rest assured that OPM, under the leadership of Director James, will do everything within its power to make sure this is done the right way.

The second point you asked us to address concerns the Commission's recommendation that the "responsibility for funding Civil Service Retirement System benefits relating to military service of postal retirees should be returned to the Treasury Department." I would like to explain why we disagree, and to respond to the specifics of the Commission's report concerning the Civil Service Retirement System (CSRS).

When the Postal Service was established by Public Law 91-375 more than three decades ago, the Congress made a fundamental policy decision. Noting that the Service has received congressional appropriations from time to time, it has been the policy of the United States that the operations of the Postal Service should be self-sustaining. As noted in a 1970 Committee report on the bill: "Rates are to be set so that each class of service pays at least its own identifiable costs and so that revenues of the postal service as a whole meet its expenses, taking into account appropriations that the Congress may chose to make to cover the loss of revenue on congressionally declared free and reduced rate mail."<sup>3</sup>

Sixteen years later, the Congress made another fundamental policy decision, this time with regard to the funding of Federal retirement benefits. When it enacted the Federal Employees' Retirement System [FERS] Act of 1986, the Congress decided that it would not permit the creation of an unfunded liability through an underfunded retirement system. Instead, the full costs of benefits would be funded by employer and employee contributions sufficient to totally defray the long-term costs of the benefits provided.

There are many elements of the benefit structure creating those costs, including eligibility criteria, creditable service, and benefit computation. While credit for military service is one element of that structure, it is not singular in nature. It is simply one element among many. What is significant is that each and every agency, including the Postal Service, is responsible for all of those costs under FERS.

When OPM discovered in 2002 that statutorily mandated payments to the Retirement Fund from the Postal Service would eventually over-fund Postal CSRS obligations, Director James worked

<sup>3</sup> H.R. Rep. No. 1104, 91<sup>st</sup> Cong., 2<sup>nd</sup> Sess. (1970), 1970 U.S.C.C.A.N. (Vol. 2) 3659

within the Administration to promptly prepare and submit legislation to ensure that the Postal Service paid only its fair share. In doing so, we followed the FERS funding model. While the CSRS benefit structure is different, the computation and responsibility for costs are on the same basis as is applicable to the Postal Service and all other agencies under FERS. Through your leadership, the Congress approved this legislation and it was signed into law by President Bush last April. Significantly, it saved the Postal Service approximately \$78 billion, and should permit the Postal Service to defer rate increases. It was simply the right thing to do.

The Commission's report asserts that no other Federal agency is required to fund military service credit for its CSRS employees, but that is simply not relevant in this matter.<sup>4</sup> Public Law 108-18, the "Postal Civil Service Retirement System Funding Reform Act of 2003," was intended to provide for accurate funding of Postal CSRS costs. It was not intended to put the Postal Service on the same plane with other agencies, which do not pay the full cost of CSRS benefits for their employees. The appropriate, "good-government" response to the under-funding issue is to require all agencies to pay the full cost of CSRS, not to give the Postal Service a discount from the real cost. I would note that full funding of CSRS is not a partisan issue, and that both this and the prior administration did in fact submit proposals to the Congress that would have required all agencies to pay the full costs of CSRS service in a manner similar to that under FERS.<sup>5</sup>

We are also troubled by other aspects of the Commission's stated rationale behind its recommendation. In particular, we disagree with the Commission's view that "it is inappropriate to require the Postal Service, as a self-financing entity that is charged with operating as a business, to fund costs that would not be borne by any private-sector corporation."<sup>6</sup>

The Commission seems to be asserting that there should be a new public policy. That new policy would require the Postal Service to pay the costs that it would be subject to as a private corporation, taking into account all of the minuses attributable to its status as a Governmental entity, but ignoring the benefits resulting from that status. We believe this concept to be misguided.

It is recognized that the Postal Service is a unique national resource that operates under extraordinary circumstances. Yet, it is impossible for it to operate like a private corporation in important ways. It has significant public service obligations, such as universal service, to which the private sector is not subject. Its ratemaking structure is subject to significant administrative review and its ability to manage its assets, such as post offices and facilities, receives great scrutiny. In recognition of these public service obligations, it also has significant advantages not shared by private corporations, including a broad statutory monopoly and freedom from many state and local tax and regulatory requirements. Indeed, the Service was granted significant assets in real estate and other property worth billions of dollars when it was established in 1971 and the Service was not required to reimburse taxpayers for these assets.

<sup>4</sup> *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service* p. 125

<sup>5</sup> The "Federal Retirement Accrual Accounting Amendments of 1995" was submitted in the 104<sup>th</sup> Congress, and the "Managerial Flexibility Act of 2001" in the 107<sup>th</sup> Congress.

<sup>6</sup> *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service* p. 125

Federal retirement is an exceptionally useful recruitment and retention tool that is unavailable to the private sector, with benefits guaranteed by the full faith and credit of the Government of the United States. Since the Postal Service has and uses this human capital tool, it should pay for its full cost. Federal retirement benefits are not served from an a la carte menu. There is no basis for the Postal Service to choose to pay for what it likes, and to receive the rest for free, subsidized by taxpayers. It is a package deal.

Moreover, the basic principle, which Congress appropriately has recognized, is that the Postal Service should pay its costs of operation. Further, this was one of the guiding principles enunciated by the President as essential for Postal reform. Thus, we respectfully take issue with the Commission's recommendation to single out the cost of CSRS military service credit as if it was a unique item in a vacuum.

The Commission's assertion that existing policy "asks those who use the nation's postal system to subsidize the U.S. military every time they use the mail" is unfortunate and inaccurate.<sup>7</sup> Providing retirement service credit has nothing to do with any subsidy for the military. On the other hand, the Commission gives no credit to the added value that military service does provide through the exceptional training and experience that makes veterans better prepared to be useful and productive Postal Service employees.

Before departing from this area, I ask you to think about one more aspect of the subject. The Commission's suggestion is limited to CSRS. Yet, if it is adopted, would such action be establishing a precedent for consideration of other retirement subsidies, such as assessing financial responsibility for military service credit under FERS?

We have adopted full funding for FERS. We have adopted full funding for Postal CSRS. Accepting the Commission's recommendation on this subject would move us in the wrong direction in establishing principles of fiscal responsibility. I would urge this Committee not to take any action which would permit the overall principle of Postal self-funding to be carved away, a piece at a time.

Director James deeply respects the work of the President's Commission. However, we strongly believe that its recommendation on this matter is fundamentally flawed. The bottom line is that the Postal Service should fully fund the costs of its operations, and retirement service credit for military service is part of that cost.

Finally, your invitation asked that we comment on the potential impact on Federal systems of making the Postal Service's post-retirement health benefits and retirement benefits subject to collective bargaining. We are currently working to prepare the report on this subject, which was requested by you, Madam Chairman, along with Senator Carper, on January 9th. Director James intends to respond, as you requested, with detailed answers to the questions that were posed to OPM in your letter, and we have already been consulting with our colleagues at the Postal Service. While it is premature to fully discuss the details of this complex subject, I would like to spend a few moments going over some of the issues involved.

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<sup>7</sup> *Ibid.*, p. 126

The Commission would make retirement “eligibility requirements and employee contributions” negotiable<sup>8</sup>. Negotiation of how the normal cost percentage<sup>9</sup> is divided should not pose a problem, since the Postal Service will pay the difference between the employee rate and the normal cost percentage. However, negotiation of the benefit structure could pose significant challenges. Retirement funding is based upon predictability and continuity. We note that there has never been a major group severed from either CSRS or FERS and placed in a separate structure. Thus, any new Postal retirement system must be carefully designed with full integration incorporated (including mechanisms for dealing with service split between Postal and non-Postal employment) in order to avoid any ensuing problems or complications.

Another area the Commission would make negotiable is the “eligibility and retiree contributions under the post-retirement” component of Federal Employees Health Benefits (FEHB)<sup>10</sup>. Our report will detail the issues and potential impact to the program raised by the Commission’s recommendations. However, we would point out that current FEHBP does not distinguish between active employees and retirees, nor are benefits tailored to any specific agency or its employees.

FEHB is a life-time program, with the major plans experience rated based upon the actual cost of benefits used by enrollees. Changing the composition of the enrollment group has a direct affect upon costs. While we do not know what options the Postal Service is considering, adverse selection could occur if a plan were developed allowing the Postal Service to take active employees out of the system while leaving retirees in under either the current system or a new system with negotiated arrangements. To do so threatens to drive up average costs in the FEHB program in a manner that would be completely unacceptable to Director James, who, as you know, has fought long and hard on behalf of our Federal employees to contain costs, including premium increases.

Further, if the Postal Service took over health benefits responsibility for its employees and retirees, it would place the entire risk and responsibility for health benefits in the hands of the Postal Service, but could potentially reduce the number of fee-for-service plans.<sup>11</sup>

I would also bring to the Committee’s attention that between 1995 and 2002, several agencies that had used their independent compensation authority during the 1980s to offer employees an alternative health insurance plan outside of the FEHB Program came to the Congress for legislative relief. One by one, they requested legislation that allowed them to make all of the current and future retirees eligible for FEHB coverage in retirement<sup>12</sup>. The legislation that was

<sup>8</sup> *Ibid.*, p. 176

<sup>9</sup> While the technical definition is more detailed and complex, in essence the “normal cost percentage” is the percentage of salary that must be contributed at the time service is performed in order to pay the full cost of retirement benefits, assuming that the contributions begin at first employment, and that the system will continue.

<sup>10</sup> *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service* p. 176

<sup>11</sup> Only the Blue Cross Blue Shield Service Benefit Plan and GEHA (Government Employees Hospital Association) Benefit Plan would be available to all employees.

<sup>12</sup> The agencies allowed to enroll in the FEHBP, the effective date of the enabling legislation, and the dates their enrollments became effective, are: 1. Farm Credit Administration (Agriculture, Rural Development, and Food and Drug Administration Appropriations Act of 1996, PL 104-37, approved October 21, 1995, FEHB coverage effective January 7, 1996.), 2. Federal Deposit Insurance Corporation (Federal Employees Health Care Protection



enacted in behalf of each of those agencies granted OPM authority to restore FEHB eligibility to their current and future retirees with an appropriate payment to the trust fund to cover the liability. While employees in those agencies had retained FEHB eligibility, in the short-term, many found the alternative coverage they were offered more attractive. However, the assumption of those agencies that in the long run they could provide more attractive health care plans and coverage for their employees on their own proved to be wrong. They found that the purchasing power of more than 8 million plan enrollees could not be readily duplicated. As healthcare costs overall began to increase significantly, their premiums were subject to much larger annual increases than those in the FEHB Programs and their benefits and coverage were reduced as well. Thus, they wisely sought to drop their alternative plans and ensure that all of their employees and retirees would have coverage under the FEHB Program. I believe this history is instructive for the Committee in considering proposals which could potentially lead to a severance of a substantial number of enrollees from the program.

In conclusion, Madam Chairman, on behalf of Director James, thank you for inviting the Office of Personnel Management to testify on this matter. I will be glad to answer any questions you may have.

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Act of 1998, PL 105-266, approved October 19, 1998, FEHB coverage effective January 1, 1999), 3. Federal Reserve System (Federal Employees Health Care Act Protection Act of 1998, PL 105-266, approved October 19, 1998, FEHB coverage effective January 1, 1999), 4. Office of the Comptroller of the Currency (FEGLI Living Benefits Act, PL 103-409, approved October 25, 1994, FEHB coverage effective January 8, 1995), 5. Office of Thrift Supervision (FEGLI Living Benefits Act, PL 103-409, approved October 25, 1994, FEHB coverage effective January 8, 1995), 6. Overseas Private Investment Corporation (PL 107-304, approved November 27, 2002, FEHB coverage effective January 26, 2003).

TESTIMONY OF  
WILLIAM H. YOUNG, PRESIDENT  
NATIONAL ASSOCIATION OF LETTER CARRIERS  
before the  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
February 24, 2004

Good afternoon. My name is William H. Young. I am the President of the National Association of Letter Carriers. On behalf of 300,000 active and retired city letter carriers across the nation, thank you for this opportunity to share our views on the crucial issue of postal reform.

NALC is the exclusive collective bargaining representative of approximately 220,000 city letter carriers who work in every state and territory of the nation. We are proud to be the best organized open shop union in the country as some 92 percent of all city carriers are voluntarily enrolled as members. Like the nearly 500,000 other postal employees represented by my colleagues appearing here today, city letter carriers have a tremendous stake in the future of the Postal Service. For them postal reform is not simply a policy matter or even a political issue, it is a matter of great personal importance for themselves and their families. So I wish to thank Chairman Collins, Senator Carper and all the members of the Committee for taking up this vitally important issue.

Over the past decade, my union has been urging Congress to pursue comprehensive postal reform. In 1994, my predecessor as NALC President called for an overhaul of the Postal Reorganization Act. Since then we have made a sustained effort to educate our members and the public at large about postal reform. We have long recognized the need for a new business model for the U.S. Postal Service in the age of the Internet. As it has for more than 200 years, technology is changing the communications needs of the American people and the commercial needs of American economy. And as in the past, our nation's postal system must change to meet these needs.

A lot is riding on our ability to meet the changing needs of the country. The Postal Service lies at the core of a \$900 billion mailing industry, a major slice of the U.S. Gross Domestic Product. If you take into account all the industries that rely on a healthy and reliable national postal service, which include printers and publishers, online merchants and direct marketers, the jobs of some 9 million Americans are at stake. Beyond that, the economic health and viability of whole regions of the country where population density is low or where urban redevelopment is desperately needed, a healthy postal system is a vital part of the nation's infrastructure, as important as roads, power plants and other basic utilities.

Over the past 10 years, the debate on postal reform has been largely confined to the House of Representatives. Progress has been slow. But thanks to the work of the President's Commission on the United States Postal Service and to the leadership of Senator Collins and the other members of this committee, that is about to change. NALC supports the general principles for reform recently outlined by President Bush and looks forward to working with leaders of both Houses of Congress to achieve bipartisan postal reform in 2004.

Today I would like to briefly address the big picture of postal reform before turning to the key workforce issues that are the main topic of this panel's testimony.

As you all know, the basic challenge facing the USPS is that electronic communications are gradually replacing key segments of the First-Class Mail stream. That mail stream helps finance an ever-expanding universal delivery network. The Postal Service delivers to 140 million households and businesses six days a week, 10 times the daily deliveries of private companies like UPS and Federal Express. That extraordinary network and the capacity it gives to every citizen and business in the country to reach every other citizen and business in the country every day is invaluable. The Postal Service is, in short, a national treasure that is worth preserving.

How can we do that if the delivery network continues to grow every year by millions of addresses while traditional mail volume growth is flat or declining? Some say its time for privatization and deregulation. The American people strongly oppose these options and, after careful study, the President's Commission rightly rejected them. This leaves few options for Congress. It can "go back to the future" and ask taxpayers to directly subsidize postal services. It can simply downsize the Postal Service in an attempt to achieve cost savings that mirror the decline in postage revenues. Or it can give the Postal Service the kind of commercial freedom that would allow it to replace lost revenues with new sources of income and to optimize the value of the national delivery and post office network.

NALC urges you to opt for the last approach. Last week's report from the CBO on the growing federal budget deficit makes it clear that the first option is out the question – even if Congress were so inclined, the federal government simply does not have the funds to subsidize the USPS. Besides, there is no reason to throw away one of the great achievements of the Postal Reorganization Act: the huge savings to taxpayers that resulted in the elimination of such subsidies. The downsizing option is equally unappealing. Universal service – which includes deliveries six days a week and easy access to a nationwide network of post offices – is just too valuable to the country to give up. Downsizing is not a viable option – closing post offices and reducing services will only make our problems worse by driving more mail from the postal system. Affordable universal service is the key to the future health of the nation's postal system.

So the answer is to give the Postal Service and its employees the tools to make the Postal Service more valuable to mailers and to the country. That means giving the USPS greater flexibility to set its prices and the ability to partner with other companies to offer new services and/or to use its network to satisfy the needs of America's citizens and its millions of businesses. Greater commercial freedom would allow the USPS to maximize revenues and control costs while retaining the value of universal service. We recognize this approach poses the difficult challenge of balancing commercial concerns and public service considerations, but it is possible to give the USPS the flexibility it needs while protecting the legitimate concerns of competitors, customers and the public at large. Many industrialized countries have successfully adopted post office models that combine commercial freedom, public ownership and a regulated monopoly. NALC urges the Congress to do the same.

Let me now turn to the main topic of this hearing, postal workforce issues. Our starting point is simple: Collective bargaining is a fundamental right of all workers, recognized

under both international and domestic law. The National Labor Relations Act recognizes this right and, as a matter of national policy, encourages collective bargaining. The Postal Reorganization Act rightly established collective bargaining in the Postal Service under the auspices of the NLRA. Before addressing some principles for workforce reforms and a number of specific workforce issues, I'd like to make three general points.

First, I'd point out that collective bargaining in the Postal Service has been a resounding success. Since the Postal Reorganization Act was enacted, there has not been a single work stoppage or significant disruption in service as a result of labor relations. Given that the PRA was enacted in part as a result of a national postal strike in 1970, this 34-year record of peaceful labor relations should not be minimized.

In fact, postal collective bargaining has been a "win-win-win" proposition:

- Postal workers have maintained decent pay and benefits resulting from the PRA – in stark contrast to the extremely low salaries that led to the strike in 1970;
- Taxpayers have saved tens of billions of dollars as a result of the elimination of direct and indirect Treasury subsidies to the Postal Service; and
- Postal Service customers have enjoyed stable postage rates that have generally increased in line with the overall rate of inflation over the course of the past three decades. (Indeed, taking postage costs and taxpayer costs together, the cost of mailing letters in America has fallen by more than a third in inflation-adjusted terms.)

All three groups – workers, taxpayers and mailers – have shared the fruits of major efficiency gains achieved over the past 30 years. The Bureau of Labor Statistics reports that postal labor productivity increased nearly 40 percent between 1972 and 2001 – a figure that does not account for the large reductions in the postal work force of the past two years. Postal collective bargaining has ensured that postal workers have shared in the benefits of these efficiency improvements. Congress can be proud that the existing collective bargaining system allows postal workers to enjoy middle class pay and benefits while maintaining the most affordable postage rates in the world and doing so without placing a burden on the American taxpayer.

Second, it is important to note that neither the postal unions nor postal management favor radical changes to existing postal collective bargaining system. We understand the unique nature of the USPS. We recognize that as an essential service that is vital to the national economy, the Postal Service is too important to the nation to allow disruptions. As a result we realize that any postal reform legislation will retain the existing prohibition against strikes and management lock-outs. A workable system for resolving collective bargaining impasses is therefore essential. NALC believes the existing system of interest arbitration has worked extremely well.

Third, it is important to note that postal labor relations have improved dramatically in recent years. All four unions have labor contracts in place that were voluntarily negotiated. All have made progress in reducing the number of work place grievances using various mechanisms. As the President's Commission noted, my union's use of an

alternative dispute resolution system is helping to transform workplace relations between the nation's letter carriers and their supervisors for the better. Since the Commission's report was issued, we have taken the next step to jointly identify problem work sites and to train labor-management intervention teams to propose practical solutions. These improvements occurred not because Congress or the GAO or any other outside party mandated them; they happened because the parties themselves worked very hard to seek common ground and to find ways to resolve mutual problems. Postmaster General Jack Potter and his team deserve credit for working with us to achieve this transformation.

With these general points in mind, NALC urges you to abide by four principles when you consider reform of the collective bargaining system:

- One, I urge you to follow the Hippocratic Oath: "First, do no harm." The system we have is not perfect – indeed, no system is perfect. But the parties have learned how to work together within the current framework and, as I outlined above, the process has worked well for all concerned. At a time of great change for the Postal Service in other areas, labor stability is crucial.
- Two, maintain the flexibility that is built into the c current law. The PRA contains specific but flexible timetables for negotiating contracts and resolving collective bargaining impasses. It also provides a menu of options for impasse resolution and gives the parties the flexibility to shape these options for use when appropriate as conditions change. Indeed, the unions at this table have used at various times, mediation, fact finding, mediation-arbitration, mediation-fact finding in combination and last best offer arbitration. In the face of constant change, the flexibility of the current law is a virtue.
- Three, avoid politicizing the collective bargaining process. Congressional or White House intervention in the process would be highly destructive. This would inevitably happen if a politically appointed regulatory body were injected into the negotiations process.
- Four, avoid exposing the process to outside litigation. Subjecting the results of collective bargaining to litigation before a postal regulatory board, as proposed by the President's Commission, would be disastrous to the process. Depending on the prevailing political winds of the day and the makeup of the regulatory board at any particular moment, either side might be tempted to try to obtain from regulators what they could not expect to achieve through good faith bargaining.

Finally, I wish to address a couple of specific issues that have arisen in the wake of the report of the President's Commission on the USPS – the direct negotiation of pension and health benefits, and changes to the system of interest arbitration.

The Commission recommended that the administration study the feasibility of separate

health and retirement plans for postal employees and that Congress consider making such benefit programs a direct subject of collective bargaining. I note that Senator Collins and Senator Carper have formally asked for such a study. Like you I await the results of that study with some interest. In the meantime, I'd like to share with you the NALC's perspective on these issues.

As you know, as employees of the federal government, postal employees are covered by either of the two federal pension plans, CSRS and FERS, and by the Federal Employees Health Benefit Program. Although eligibility for participation in these programs is automatic and is not subject to collective bargaining, it is important to understand that the cost of such benefits figure very prominently in postal labor negotiations. In the area of health benefits, postal management and its unions already directly negotiate the share of premiums to be paid by workers and the Postal Service. And when it comes to negotiating wage increases, the rising cost of pensions is explicitly discussed by the parties. The so-called roll-up factor for employee fringe benefits – the added cost of benefits when postal wages are increased – is never far from the negotiators' minds. And you can be sure that no interest arbitration panel employed over the past 20 years has been spared voluminous evidence from both sides on the cost of health and pension benefits.

My point is this: Although the parties do not directly negotiate over all aspects of postal benefit costs, these costs are not ignored and they invariably affect the results of wage negotiations. Indeed, a close examination of postal wage trends over the past 25 years reveals that postal wages have increased much less than wages in the private sector as measured by the Employment Cost Index. Since September 1975 when it was introduced the ECI for wages of private sector wages increased by 259 percent. Over that same period, postal bargaining unit wages increased 212 percent. I submit that this wage restraint is a direct reflection of the efforts of negotiators (and interest arbitrators) to restrain wage costs in the face of skyrocketing health and pension costs.

Given this context, we do not believe that it is necessary to formally place health and pension programs on the collective bargaining table. The parties already effectively take these costs into account.

However, there are also practical reasons for rejecting separate postal-only benefit plans and/or direct negotiations.

Separating postal employees from CSRS, FERS and FEHBP would destabilize the programs for the rest of the federal workforce. The removal of postal employees from existing FEHBP plans, for example, would raise health care costs for other agencies and their employees since studies have shown postal employees to be healthier on average than other federal workers. Separate postal pension plans would add administrative costs for the Postal Service as it would have to create a new bureaucracy to run a postal-only plan that would inefficiently duplicate the existing system used by the Office of Personnel Management to disburse pension benefits.

Direct negotiation of benefit plans also raise the specter of introducing destructive inequities in pension and health benefit coverage both among postal employees – who are represented by four different unions – and between postal employees and other federal employees.

Let me turn to one other specific workforce topic raised by the President's Commission: Reforms to the postal interest arbitration process. The Commission suggested major changes to the existing dispute resolution process, including the elimination of tripartite arbitration, the imposition of a strict timetable for mediation and arbitration, the required use of "last best and final offer" procedures and regulatory review of collective bargaining agreements.

We believe these changes are unnecessary and counterproductive for a couple of very practical reasons. First, the Commission's proposals would discard 30 years of experience by the parties and require us to start all over again under a radically different process – a prospect that would inevitably impose significant costs on both sides. Second, we believe the only workable changes to the system of collective bargaining must be developed and negotiated by the parties themselves, not externally legislated or mandated. Both parties must see the process as "their process" for the results to be legitimate. The existing system gives us the flexibility to shape the dispute resolution process without outside intervention.

Let me add one last note on interest arbitration. We believe the existing dispute resolution system is a fair and acceptable alternative to the right to strike. I say this not because we always prevail when we go to interest arbitration. Indeed, on more than one occasion we have lost. In the 1990s an interest arbitration panel chaired by Richard Mittenenthal adopted a USPS proposal to create a lower-paid temporary work force to handle the transition to full automation and another panel chaired by Rolf Valtin increased the employees' share of health insurance premiums. I say it because, win or lose, my members know that the existing system gives us a fair chance on the merits and therefore they accept the results as legitimate. The Commission's proposed changes in the area of interest arbitration fail this basic test of fairness. They would surely do more harm than good.

I want to conclude my testimony by repeating something I told the members of the President's Commission at its first public hearing in February 2003. Good labor relations must be built of trust and good faith between the parties. No amount of tinkering with the mechanics of the collective bargaining process will change that basic fact. At this moment of great challenges for the Postal Service, we have worked hard with the Postmaster General to build trust between us and to improve the workplace culture in the Postal Service. Please tread lightly in these areas so as not to risk the progress we've made.

I offer this Committee the full cooperation of the men and women who deliver the nation's mail everyday. Working together we can ensure that every American household and business will continue to enjoy the best postal service in the world for decades to come.



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Testimony of  
 Dale A. Holton, President  
 National Rural Letter Carriers' Association

before the

Senate Committee on Governmental Affairs  
 Hearing on Postal Reform

February 24, 2004



Good morning, Chairman Collins and members of the Senate Governmental Affairs Committee.

My name is Dale Holton. I am President of the 103, 000-member National Rural Letter Carriers' Association. This is my first opportunity to testify before the Senate and I am looking forward to it. Rural Carriers drive 3 million miles daily on nearly 70,000 routes, delivering mail to 32.8 million rural and suburban families and businesses. For our customers we are a "post office on wheels," offering all the services the counter of a post office provides. We sell stamps & money orders, accept express & priority mail, signature and/or delivery confirmation, registered & certified mail and, of course, accept our customer's parcels.

We, once again, thank the President for creating the Commission on the Future of the Postal Service. We are grateful to the men and women who served on the commission and applaud their report. We think they did a very good job in a very short window of time. No less an expert than the executive director of the previous presidential commission warned the White House of the perils of limiting the Commission's work to only 6 months--- instead of 1 year ---to complete their business.

Given their deadline, we believe their intents were laudable. However, their governance recommendations are puzzling; their collective bargaining recommendations are problematic; and their pension & health benefit recommendations are perilous.

The proposed new regulator is assigned a study of pay

comparability.

Pay comparability is a management-labor issue, not a regulatory issue.

No other regulatory agency in Washington conducts wage comparability studies of workers in industries it regulates, not the FAA, FCC, FTC, or FDIC, et.al.

If USPS goes into a downward revenue spiral, we're certain that through collective bargaining and ultimately, interest arbitration, the case can be made before an arbitrator by the Postal Service, to hold the line on wages or provide for increased productivity. After all this is what happened to us in our last round of negotiations.

The system of collective bargaining Congress designed 30 years ago continues to work well today. Congress decided as a matter of public policy that a disruption of the nation's commerce because of a mail strike was not good public policy and created a system of binding arbitration for postal collective bargaining impasses. This Commission proposes changes in the law that would remove flexibility. Now the parties may optionally employ most of these proposals. Each set of negotiations is unique and needs the options circumstances require. We believe that a system in which options are available works best.

In binding arbitration there is no guarantee either side will prevail. The NRLCA-USPS 2000 contract negotiations went to binding arbitration. We jointly agreed to utilize a single individual as mediator, fact finder, and arbitrator throughout the process; you could say we utilized med-arb. We opted for it. The parties agreed to it.

I would like to explain the rural carrier compensation system. Rural letter carriers are paid on an evaluated system. Annually the mileage for each route is determined by actually driving the route. The number of deliveries is counted. Finally, each year there is a period during which every piece of mail is actually counted, the period is subject to collective bargaining. Each type of mail has a time value. The multiplication of mileage, deliveries, and mail count results in an hours per week total--the route's evaluation. This is the basis of that carrier's compensation.

Arbitrator John Calhoun Wells awarded the Postal Service an increase in the work pace of rural carrier's casing mail. The Wells award decreased the time value for casing letters and flats during the annual mail count. The award decreased the pay of the average rural carrier 3.1 hours per week. Each hour is worth \$1500 a year. Carriers lost \$4600 a year on average. This resulted in ½ hour a day more work for the same pay. Arbitrator Wells did grant a pay raise of \$2600, but it did not compensate for the \$4600 loss. Senators, you do the math to see who won that arbitration.

The point is binding arbitration does not guarantee your side will be a winner!

The savings to the Postal Service, by their own figures was approximately 12 million less paid hours annually due to this arbitration award. The award's savings to USPS for rural carrier compensation is \$324,000,000 annually.

The letter-sorting standard was increased 12.5%. The standard for sorting flats and magazines was increased by 25%. The speed

for strapping out or "bundling" the mail to prepare for delivery was increased by 16.7%. These productivity increases helped reduce the carrier's weekly paid time over 3.1 hours per route on average. Rural carriers were unsuccessful in increasing their time for a parcel. We continue to deliver parcels to the door, up to a half-mile from our line of travel, wait for the customer to open the door, and return to the line of travel for a total time allowance of 30 seconds per parcel. It should be noted that our walking standard continues to be 4 miles per hour, 33% faster than that of UPS delivery employees.

During those arbitration proceedings, it took NRLCA-USPS six months to schedule twenty-one (21) days of the arbitrator's time. The expedited timetables proposed by the Commission are laudable, but unattainable. The most impossible proposal is to schedule 3 independent arbitrators and wrap it up in 60 days. Again it took us 6 months to get 21 days out of 1 arbitrator. We can't imagine scheduling 3 in a 60-day window, unless you count days when only the 3 actually meet.

The proposals to change the collective bargaining procedures and timetables are problematic.

Today the Postal Service has no responsibility to manage a retirement or health benefit program for its employees. The Office of Personnel Management (OPM) performs that task quite capably. The Commission Report recommends very cautious consideration of a separate Postal retirement and health benefit programs subject to collective bargaining. They cautioned of unintended consequences. One of every three civilian federal employees is a postal worker. We believe pulling one third of

the participants out of the current retirement system and health benefit program could have a negative impact on the existing FERS and FEHB Programs. NRLCA believes this could also present a very serious management problem for USPS. Although there are just 720,000 full time employees at the Postal Service, annually the USPS issues over 1 million W-2s. First, the Postal Service would need to create a trust fund for retirement contributions, and NRLCA would demand joint trusteeship over investments. Second, they would need investment experts to manage the trust fund. They would have to begin record keeping for current, retired, part-time and former employees. The path is fraught with perils.

The Federal Employees Health Benefits Program is frequently pointed to as a model. Separating postal workers from the rest of the federal workforce for health insurance coverage would jeopardize its stability. Again, the postal service does not currently have experts on staff to deal with health insurance companies, health maintenance organizations (HMOs), preferred provider organizations (PPOs) or prescription benefit managers (PBMs).

Today, the NRLCA health plan negotiates with our insurance underwriter of 40 years, the Mutual of Omaha Insurance Company, and we then negotiate with the Office of Personnel Management. For example, the Rural Carrier Health Benefit Plan could decide next year to pay 100% of an annual mammogram, as our workforce is 55% female. Mutual of Omaha's actuaries would estimate how many enrollees will utilize this benefit. Mutual will estimate the amount of premium dollars to reserve for this increased benefit. We negotiate how that fits in with allocation of all other premium dollars. OPM would then need to ask NRLCA how it

proposes to pay for that benefit. Is NRLCA going to raise premiums, raise co-pay, or lower an existing benefit?

Finally, the percentage of the postal service's contribution to each employee's health benefit premium is subject to collective bargaining.

Any changes to the current status of retirement and health benefits are perilous to the existing programs, the postal service and the employees and retirees.

I believe it was the first PMG in *Poor Richard's Almanac* who said, "Take time in all things, haste makes waste!"

In their haste, the Commission made recommendations that are puzzling, problematic, and perilous.

Chairman Collins and Senators, Thank you for your interest in this important issue. We look forward to continuing our public and private dialogue with you and members of the committee. I would ask that my full remarks be entered into the record and I would be pleased to answer any questions you may have.



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Before The

**UNITED STATES SENATE  
COMMITTEE ON GOVERNMENTAL AFFAIRS**

Testimony Of

**WILLIAM BURRUS, PRESIDENT  
AMERICAN POSTAL WORKERS UNION, AFL-CIO**

(February 24, 2004)

**Congressional Testimony**

Good afternoon, Chairman Collins and members of the Committee.

Thank you for the opportunity to testify on behalf of more than 300,000 members of the American Postal Workers Union, AFL-CIO. The APWU is the largest single bargaining unit in the country, and I appreciate the chance to share with you the views of our members on a most important issue: postal reform. Thank you for your continuing interest in this vital subject.

This Committee has an historic opportunity to protect and preserve the United States Postal Service, but we must be careful to ensure that our efforts in fact preserve the Postal Service for the American public. Too often, in this rush for postal reform, special interests have been considered without balancing the broader needs of our nation and its individual citizens.

The mailing industry has driven the debate about "postal reform" as it seeks to shape the Postal Service in a way that will best serve its interests. This is neither surprising nor bad; but it is very important that the Committee distinguish between the public interest in universal mail service at uniform rates, and the interests of major mailers in maximizing their profits.

Postmaster General Jack Potter has called the Postal Service an "American Treasure," and he is undeniably right. For nearly 250 years, the U.S. Postal Service has performed an essential service for the American public. It is not an exaggeration to say that the Postal Service has "bound our nation together."

The stated objective of those who favor postal reform is to offset the impact of technology on mail volume. Whether mail volume increases or



decreases, however, the need for a viable Postal Service will be important to our country. Despite the effects of Internet communications, facsimile machines, and the telephone, the unifying role of the Postal Service is still critical. A study released in 2003 by the Pew Internet and American Life Project concluded that 42 percent of Americans do not use the Internet. Sixty-two percent (62%) of Americans with disabilities do not use the Internet; racial and ethnic minorities, the elderly, and less well-educated Americans are also less likely to use the Internet. If the Postal Service were not available, the deepening divide between the well-off and the not-so-well-off would be much worse. Millions of Americans still rely on the Postal Service because they must. For these Americans, there is no alternative to affordable universal service.

And companies both large and small that are not tied to the mailing industry rely on the Postal Service to conduct business. Their interest in a stable, reliable postal network that provides universal service at uniform rates cannot be overlooked.

At the Committee's request, my testimony will include an analysis of the Presidential Commission's workforce-related recommendations – recommendations which we adamantly oppose. I will also share our views on other important aspects of postal reform. As president of the union, foremost among my concerns are the interests of APWU members. But the long-term health of the Postal Service is also a concern, and we promise to join with those who seek positive change.

Before I discuss the workforce recommendation in the Commission's

Report, I urge that primary attention be focused on the recommendation that the Postal Service be relieved of the military retiree costs, and that the escrow of the CSRS contribution be resolved.

I also want to add a third consideration that is equally important. It is my understanding that the Office of Personnel Management is proposing to shift to the Postal Service \$86 billion in costs that are attributable to previous federal government employment. This would be an enormous burden to the Postal Service, to consumers, and to the mailing industry. Correcting these three problems, and thereby relieving the Postal Service of these large unjustified financial burdens, may be the most important action that Congress could take to preserve and protect the Postal Service.

In addition to the important issues mentioned above, the APWU could support changes that include flexible rate setting; the design and introduction of new products; the freedom to borrow, invest, and retain earnings; and a prohibition against postal discounts that exceed the costs avoided by the Postal Service.

#### **The Commission's Deliberations**

In considering the specifics of reform, I want to emphasize that the Commission did not give sufficient consideration to the needs of individual Americans and businesses that are not part of the mailing industry. The hearings and the Commissioners' private meetings were dominated by large mailers.

Naturally, their interests must be considered, but not to the exclusion of all others. The Commission heard from very few representatives of consumers or the public. Only two months before it issued its final report, the Commission heard testimony from former Congressman Bill Clay, who was testifying on behalf of the Consumer Alliance for Postal Services. Mr. Clay, who chaired the House Committee on Post Office and Civil Service for years before his retirement, emphasized that the views of ordinary citizens had not been heard. As Chairman Clay stated:

"[The Commission] heard from vendors, large mailers, marketers, union representatives, and the Postal Service itself, but the voices of individual Americans who rely on the mail during the course of their daily lives have been missing."

It is extremely important that Congress look beyond the interests of the large mailers and examine the public interest.

#### **Technological Impact on Hard-Copy Communications**

The widespread support for postal "reform" is based on the premise that the Postal Service is a falling institution – one that is at risk of entering a "death spiral." I believe it is premature to make a final determination on this matter.

We must remember that postal volume continues to recover from the effects of several national events. The first was, of course, the terrorist attacks of 9/11. That was followed by the anthrax attack that took the lives of two postal workers.

The combined effects of the 9/11 and anthrax attacks were superimposed

over the recession that began in early 2001, from which we are only now experiencing a relatively weak and inconsistent recovery. If one were to extract the impact of technological diversion, these events still would have had a serious impact on postal volume.

There are positive signs. The Postal Service recently reported that mail volume during the 2003 holiday mailing season increased sharply over the previous year, resulting in the highest volume period in the history of the Postal Service. Are we to believe that technological impact took a holiday this Christmas season, or are other factors at work?

As you are aware, Congressional action to limit telephone solicitations, and a renewed concern over e-mail spam are having a positive impact on hard-copy advertising, and are expected to lead to increased mail volume. It is simply too early to make definitive projections on the future of hard-copy communications.

While e-mail and the Internet are increasingly used as communication tools, the expansion of technology is not new. The telegraph and the telephone, for example, were equally progressive at the time of their development. So we must be careful not to assume too much about the impact of today's new technologies on hard-copy communications.

Throughout this recent period of technological upheaval, the Postal Service has shown a remarkable capacity to provide excellent service. Despite declining mail volume, total-factor productivity increased 1.8 percent in 2003, while service standards were maintained. The postal workforce has been

reduced, with 11,000 further reductions planned for 2004. These are remarkable achievements, particularly because the Postal Service's mission requires providing universal service to a growing nation.

Productivity increases in mail processing, where the majority of workers we represent are employed, have been a major contributor to this strong performance. Since 1986, the number of mail-processing employees has declined from a peak of more than 220,000 workers to the present workforce of slightly more than 140,000, a reduction of 80,000 workers.

These changes have had a profound effect on the mail-processing workers we represent. But despite the effect, the APWU has never opposed automation, as long as the affected workers are protected and treated fairly – consistent with our Collective Bargaining Agreement.

#### **Rate Setting**

Because of these unprecedented productivity increases, there is strong reason to believe that Postal Service revenues could be sufficient to support universal service, *if* rates are properly set. It is critically important that rates be set to reflect the underlying economic realities.

The APWU has been a vocal critic of unfair rate-setting that benefits some very large mailers at the expense of consumers and small businesses. Even more important than the issue of fairness in rate setting, however, is the issue of the ability of the Postal Service to survive.

The Postal Service's own data show that worksharing discounts provided to major mailers exceed the costs avoided by the Postal Service. These excessive discounts cost the Postal Service hundreds of millions of dollars in lost revenue every year. It is not possible to create a business model for a healthy Postal Service if the rate-setting process continues to hemorrhage hundreds of millions of dollars. Put simply, the Postal Service cannot break even if it continues to artificially subsidize major mailers hundreds of millions of dollars every year.

This problem was acknowledged by the Presidential Commission's recommendation that all *future* discounts be limited to the costs avoided. This is simply not good enough. That horse has left the barn and we need to get it back to preserve universal service in the public interest.

Some interested parties, when confronted with the fact that discounts cannot be justified, have responded by calling for "bottom-up pricing." This radical concept, which purports to establish a system whereby mailers pay only for the services they use, would actually relieve the largest mailers of any responsibility for the costs of maintaining a universal system. It would almost certainly result in surcharges for service to rural communities and low-volume post offices.

Such a structure would be tantamount to proposing that public education be funded only by those who have children in school. The proponents of this radical approach – those who profit from the universal service network – are eager to avoid paying for it. A self-interested proposal like this is a natural and

predictable position for any profit-motivated industry to take, but it cannot form a basis for public policy. Ultimately, bottom-up pricing would destroy the Postal Service's financial self-sufficiency and require Congress to make a choice between public subsidies or the abandonment of universal service.

And I wish to make an important point on the subject of future mail volume and the impact on the USPS ability to provide universal service. The current business model is not responsible for the relative contribution level between first-class and standard mail. Even if first-class mail continues to grow, despite the inroads of technology, the question of dividing institutional costs among all classes of mail will remain. At present it takes approximately three new pieces of standard mail to make up for the loss of one piece of first-class mail. This distribution of cost is a political decision that will be unresolved by postal reform. So, even with robust mail growth far into the future, postal rate-setters must revisit the distribution of cost, with or without postal reform.

In sum, the current evidence concerning weakening mail volumes, while reason for concern, does not justify the conclusion that sweeping change is necessary. Elimination of excessive discounts, along with more appropriate pricing in the future, will bolster postal revenues and preserve universal service.

#### **Discussion of Specific Workforce-Related Commission Recommendations**

As the Committee requested, I will now state the views of the APWU on the specific workforce-related recommendations of the Commission. I begin with

our conclusion that the workforce-related recommendations are outrageous and totally unacceptable to me and to the workers I represent. And, as I have previously said, on the subject of workforce issues, the Report is fundamentally dishonest.

The Report repeatedly states that the Commission supports the right of postal workers to engage in collective bargaining. Nevertheless, it recommends the establishment of a three-member Postal Regulatory Board, appointed by the President, which would have the authority to set the compensation of postal employees.

It is completely inconsistent, and totally unacceptable, for the Commission to espouse a commitment to collective bargaining while simultaneously recommending that postal compensation be dictated by an appointed board, separate and apart from the collective bargaining process.

Testifying before this Committee on Sept. 17, 2003, Co-Chairman James A. Johnson said that any employee compensation changes would be "prospective," and that current employees would not be impacted. In fact, commission recommendations would authorize the Board to impose a cap on the compensation of new employees *and* to reduce the compensation of current employees, on a timetable to be dictated by the Board.

Another example of the Commission's arrogant disregard for collective bargaining is the recommendation that existing no-layoff protection be prohibited by law. The Commission Report acknowledges that this protection is wholly the product of collective bargaining, but nevertheless recommends that it be



prohibited.

And while the Commission recommends what it calls "Pay-for-Performance," it fails to note that there is nothing in present law that prohibits or inhibits pay for performance: Under current provisions, the Postal Service and unions are free to negotiate for it.

The Commission seems to believe that postal workers are fools. The following disingenuous platitudes appear in the Report:

- "...plans for modernizing the nation's postal network...must effectively utilize the Postal Service's most valuable asset – its employees."
- "Essential to this process is the ability of management and labor to work constructively together to determine the right size of the postal workforce and to ensure appropriate flexibilities in its deployment. This is *the* critical issue when it comes to controlling the future costs and capabilities of the workforce. Far more than individual benefits, the *size* of the workforce determines the *costs* of the workforce."
- "First and foremost, Postal Service management must repair its strained relationship with its employees."

In contrast to these statements, the Commission's specific recommendations are an invitation to open conflict with postal employees. The Report paid lip service to the importance of good labor relations, while making recommendations that would assure labor conflict.

**Bargaining Process**

The Commission's recommendations to change the collective bargaining process are unwise and would be counterproductive. Current law permits the parties maximum flexibility in their efforts to resolve their differences. Over the years, the parties have negotiated every subject identified by the Commission – health benefits, flexibility, retirement, no-lay-off protection, wages, a two-tier workforce, and many others. When the parties have disagreed, they have used "last best final offer" (LBFO), fact-finding, mediation, fact-finding-mediation; and, at least once, the parties' mediator became the neutral interest arbitrator. But more importantly, most often we have agreed at the bargaining table and concluded negotiations without outside interference.

The Commission is wrong to say that any one of these methods is the best way of helping the parties reach agreement. Each negotiation session brings its own challenges, and the best way to meet these challenges is to permit the parties to mutually agree to adjust to the conditions at hand, rather than to impose a fixed statutory process. We know how to reach agreement, and the Postal Service and the unions have done so 65 times over the 32-year period of collective bargaining.

We particularly object to several aspects of mediation and arbitration as recommended by the Commission. First, the law should not require that a mediator serve in every instance as an interest arbitrator. If the parties know that will occur, mediation will become the beginning of Interest Arbitration. The

momentum of negotiations – which should be carried into any mediation process – would be lost as the parties change into an adversarial mode before the beginning of mediation.

Second, it is entirely wrong to suggest that the party-appointed arbitrators in the present system be replaced by additional neutral arbitrators. It is a real strength of the present system that party-appointed arbitrators participate as arbitrators in the hearings and in the deliberative process. The result of their participation is that the neutral arbitrator's decision is informed by a much more detailed knowledge of the parties' interests and arguments than would otherwise be possible.

We also object to a rigidly shortened timetable for dispute resolution. On occasion, complicated disputes cannot be resolved within 90 days.

### **Benefits**

The Commission urged Congress to consider removing postal employees from federal retirement and retiree healthcare plans. This would be a diametrical departure from appropriate public policy. We categorically reject the contention that it would be appropriate for postal employees, now or in the future, to be paid fringe benefits that are less than those provided to other federal employees.

In recent years, postal workers have repeatedly stood on the front lines of homeland security; before they are hired they must submit to background checks and fingerprinting, and they are administered a federal oath of office. It would be

an insult to their courage and dedication to suggest they should be afforded something less than federal status.

The same is true of workers' compensation benefits. These minimum benefits are not negotiable, nor should they be. It would be indecent for the Postal Service to seek to impose substandard retirement benefits, retiree health benefits, or workers compensation benefits on postal employees.

The Commission ignored the fact that employer contribution rates for health benefits have repeatedly been made the subject of negotiations and interest arbitration. The present contribution rate for active employees was set in the 1990 National Agreement, by a neutral arbitrator using a "last best final offer" dispute-resolution mechanism. Contrary to the impression given by the Report, health benefits *have* been the subject of negotiations.

In this debate over the cost of health benefits, forgotten is the evidence that rising healthcare costs are due in part to a large number of uninsured or underinsured Americans. This is not a failure of bargaining, but a problem for both workers and employers. This important public policy problem cannot be solved by shifting costs from employers to employees or retirees.

Health benefits, whether for active workers and their families, for people who have been injured on the job, or for retirees and their families, are a very powerful and emotional issue. It would be a callous act to reduce the health benefits of postal workers injured by anthrax; to reduce their Injury Compensation benefits, or to reduce the benefits of the widows of the workers killed by exposure to anthrax.

**Postal Compensation Under the PRA**

The collective bargaining provisions in existing law have worked well. The bottom line is that they have resulted in labor costs that have tracked the increase in the Consumer Price Index and the Employment Cost Index.

We have always believed that the wages and fringe benefits paid by UPS and FedEx provide an appropriate and useful comparison to postal compensation. These are the largest American companies whose workers perform some of the same tasks that we perform. They are, of course, also direct competitors of the Postal Service. These companies pay their career employees wages and fringe benefits that compare very favorably to the wages and benefits our members receive.

Some postal critics have pointed to the fact that employee compensation as a proportion of total costs is higher for the Postal Service than for UPS and FedEx. This is misleading. A study of comparative company costs shows that the difference is accounted for by the fact that UPS and FedEx each own a fleet of airplanes. Because these companies are more capital intensive, their employee compensation as a proportion of total costs appears to be lower. If the Postal Service were to invest in its own fleet of airplanes (an investment that would likely improve service and cut long-run costs), that investment alone would bring postal compensation costs as a proportion of total costs into line with its competitors.

These comparisons are also affected by the obligation of the Postal Service to provide universal service. Letter Carriers travel their entire route every day, delivering to many addresses with relatively low-volume, low-revenue mail. This is an important service, but it is very labor intensive. Package or expedited delivery companies, on the other hand, travel only to those destinations that they choose and for which they have been paid a premium.

It is my understanding that the Committee intends to hear testimony on postal compensation from Professor Michael Wachter. It is important that the Committee understand that Mr. Wachter is a lawyer-economist who has served as an advocate for the Postal Service in Interest arbitration on postal compensation since 1981. His views are not new. In commenting on his testimony, the Commission concluded:

"...the Commission believes it is inappropriate for itself, Congress or any interested party to settle this debate. Rather, the overriding public interest lies with entrusting this determination to an independent entity...."

What the Commission overlooked is that these arguments have been subjected to scrutiny by independent neutral arbitrators in every postal Interest arbitration, beginning in 1984. And they have not been accepted by those impartial and independent experts.

In addition to the fact that these arguments are wrong, it is important to observe that the Committee will be hearing them out of their appropriate context. In the parties' Interest arbitration hearings, many days are devoted to consideration of the issue of comparability. Comparability cannot be, and should not be, determined by resorting to mathematical models.

When hearing from Mr. Wachter, the Committee should understand what it is getting – a small slice of the partisan advocacy used by the parties. You will not receive the full body of information required to make a fair determination of comparability.

Most notable in this regard is the seminal Interest arbitration award of the late Dr. Clark Kerr. Dr. Kerr was an internationally-renowned labor economist and arbitrator. After carefully considering all the evidence concerning comparability, Dr. Kerr declared that "comparability, like beauty, quite obviously, is in the eye of the beholder." This is as it should be, because dispute resolution through Interest arbitration is an extension of the bargaining process. It is not a computation; it is a substitution for the right to strike.

### Conclusion

In conclusion, I want to return to the most urgent needs of the Postal Service. The Service needs to be relieved of the burden of paying for military retirement, at a cost of **\$27 billion**. It also needs to be permitted to make appropriate use of the savings from the re-calculation of its CSRS contributions, estimated at **\$10 billion**. In addition, OPM's effort to shift to the Postal Service federal service retirement costs – estimated to be approximately **\$86 billion** – must be reversed.

This is not process or procedure; this is real money, and any serious effort at reform must begin with relief from these burdens. If the objective is to stabilize the Postal Service and secure its future, this is where the process must begin.

Thank you again for the opportunity to present this testimony. I would be pleased to answer any questions you may have.

**TESTIMONY OF**

**JOHN F. HEGARTY**  
**NATIONAL PRESIDENT**  
**NATIONAL POSTAL MAIL HANDLERS UNION**

**BEFORE THE**

**SENATE COMMITTEE**  
**ON**  
**GOVERNMENTAL AFFAIRS**

**U.S. POSTAL SERVICE:**  
**REPORT OF THE PRESIDENT'S COMMISSION**

**FEBRUARY 24, 2004**



Good afternoon, and thank you Madame Chair, and members of the Committee, for this opportunity to testify. My name is John Hegarty, and I am National President of the National Postal Mail Handlers Union (NPMHU), which serves as the exclusive bargaining representative for approximately 57,000 mail handlers employed by the U.S. Postal Service.

\* \* \*

Mail handlers are an essential part of the mail processing and distribution network utilized by the Postal Service to move more than 200 billion pieces of mail each year. We work in all of the nation's large postal plants, where mail handlers are responsible for loading and unloading trucks, transporting mail within the facility (both manually and with powered industrial equipment), preparing the mail for distribution and delivery, operating a host of machinery and automated equipment, and sorting and containerizing mail for subsequent delivery. Our members generally are the first and the last employees to handle the mail as it comes to, goes through, and leaves most postal plants.

The majority of mail handlers are employed in large postal installations, including several hundred Processing & Distribution Centers, Bulk Mail Centers, Air Mail Centers, and Priority Mail Processing Centers. The largest of these installations, most often measured as those which utilize 200 or more bargaining unit employees, currently employ more than 90% of the mail handlers represented by the NPMHU, and close to 80% of mail handlers work in installations that have 500 or more postal employees.

Although mail handlers are located throughout the United States, they are not spread evenly across all geographic areas. For example, more than 40% of all mail handlers are employed in seven of the largest Consolidated Metropolitan Statistical Areas that are tracked by the Census Bureau—i.e., New York, Chicago, Washington-Baltimore, Los Angeles, San Francisco, Philadelphia, and Boston. And thousands of other mail handlers are working in or near other large cities, including Buffalo, Cincinnati, Cleveland, Dallas, Denver, Detroit, Hartford, Houston, Indianapolis, Milwaukee, Pittsburgh, Providence, Richmond, St. Louis, Minneapolis-St. Paul, Phoenix, Seattle, and Springfield, Massachusetts. The vast majority of mail handlers, therefore, work in the nation's twenty-five largest metropolitan areas, where the cost of living is generally higher than average.

Virtually all newly-hired mail handlers are employed in part-time flexible positions, with no fixed schedule, and no guaranteed work beyond two or four hours (depending on the size of the facility) per two-week pay period. For this position, the current starting pay – as of November 2003 – is \$13.92 per hour (or only \$13.38 if the position is full-time). Even assuming that such a recently-hired mail handler is assigned work for 40 hours per week, at that hourly rate a new mail handler would earn base annual wages equal to only \$28,953 per year (calculated as \$13.92 per hour for 2,080 hours). Assuming that the mail handler continues to work for the Postal Service, after several years of part-time employment, the employee generally (although not always) would be converted to a full-time regular position with fixed days and hours.

This fixed schedule usually includes work at night between the hours of 6:00 pm and 6:00 am (over half of all mail handler hours fall within this time frame) and often includes work on weekends. After thirteen years of working for the Postal Service, the wage scale currently in effect provides for a mail handler hourly wage of \$20.12 per hour. This base wage remains the same, subject to future negotiated increases, for the remainder of the mail handler's career, such that a mail handler who has dedicated 30 years or more of his or her life to the Postal Service also currently earns that same amount -- \$20.12 per hour or \$41,849 per year.

We believe the current wage system is fair, but it certainly is not an extravagant amount to pay for a workforce dedicated to the Postal Service and the American public. We dare say that no one complaining about the level of postal wages—nor one of their hired lawyers, paralegals, or even secretaries — earns less than this amount after thirty years of dedicated service. Nor is an entry wage of a less than \$14.00 per hour for a part-time job without guaranteed hours unreasonably high. To the contrary, the NPMHU submits that the Postal Service easily could justify the payment of higher wages to its career employees.

\* \* \*

The NPMHU counts itself as a strong supporter of legislative change that would grant the Postal Service additional flexibility in pricing, borrowing, and the design of postal products.

We recognize that the Postal Service must change with the times. But it must do so in a way that preserves the core mission of the Postal Service. Congress has the chance to provide the Postal Service with additional flexibility in the setting of prices, the freedom to design or introduce new postal products, and the ability to borrow and invest with fewer constraints, and taken together such reforms can help the Postal Service survive – if not thrive – well into the 21st Century. To do so, legislative change must ensure that the Postal Service is allowed to establish postal rates that remain affordable, both to the major business mailers and the average American consumer. At the same time, those rates also must be sufficient to protect and support the infrastructure that universal service requires, and to provide postal employees with a decent and fair standard of living. Although much work remains to be done, the NPMHU plans to remain a part of the upcoming legislative process necessary to enact these statutory changes. There is a sense of optimism that appropriate reform of the Postal Reorganization Act could ensure a successful Postal Service for decades into the future.

\* \* \*

The NPMHU strongly endorses the current process for collective bargaining under the Postal Reorganization Act, including initial face-to-face negotiations, followed by possible mediation or other dispute resolution procedures agreed to by the parties, and culminating, if necessary, in binding interest arbitration before an independent and neutral, but jointly selected, arbitrator.

The current National Agreement between the NPMHU and the Postal Service covers the period from November 2000 through November 2006. Although it originally was scheduled to terminate later this year, the NPMHU recently reached an agreement with the Postal Service on a two-year extension to the contract that was overwhelmingly ratified by our members. There is every reason to believe, moreover, that the positive bargaining relationship between the NPMHU and postal management will remain relatively stable into the foreseeable future.

Nor is labor peace a recent phenomenon. Since the PRA was enacted in 1970, the NPMHU and the Postal Service have engaged in thirteen rounds of full collective bargaining, eight of which (including the last three, in 1998, 2000, and 2003) have resulted in voluntary agreements that were endorsed by postal management and ratified by the union membership. The other five were resolved through arbitration, with the results willingly accepted by both parties. Moreover, on at least three of the five occasions when the parties reached impasse and resolved their negotiations dispute through arbitration, the parties actually settled most open issues, and arbitrated only one or two issues that could not be resolved without an arbitrator's decision. Even when arbitration does occur, there are no guarantees. Arbitration in the 1984 round of bargaining created a lower entry rate for new mail handlers, and arbitration in the 1990 round produced three years without any general wage increases for mail handlers. Because both parties accept the process, however, even these clear management victories were implemented peacefully.

The key advantage of the current bargaining process is its flexibility. Under the current statute, the parties to any bargaining dispute are allowed to devise their own procedural system for resolving their dispute. Thus, under the PRA, fact-finding followed by arbitration is the default position, but the parties in prior years have used fact-finding, mediation, arbitration, and multiple combinations of these processes to resolve their disputes. If the procedural changes recommended by the Presidential Commission were adopted, however, this flexibility would be eliminated, and instead the parties would be constrained by rigid procedural rules that, in the NPMHU's view, would not improve the bargaining process one iota.

In contrast to the current flexibility, for example, the Commission stated that the "core ingredient" of its revised procedure for bargaining is to use a mandatory, meditation-arbitration or "med-arb" approach to resolve bargaining impasses. Under a med-arb approach, the fact-finding phase now set forth in the Postal Reorganization Act would be eliminated and replaced with a mandatory mediation phase of thirty days, and if the mediation were unsuccessful, the appointed mediator would become one of the final arbitrators. The NPMHU, however, believes that requiring this med-arb approach would be counterproductive to the successful resolution of many bargaining disputes. (It bears noting, of course, that the flexibility now part and parcel of the PRA permits the use of med-arb, and it has been utilized in prior rounds of bargaining when the parties deemed it advisable.) Simply put, it would corrupt any attempts at mediation, by destroying the usual

confidentiality of the mediation process, and making it impossible for either party actually to share its priorities with the appointed mediator. To quote a noted expert, “parties to a combined mediation-arbitration procedure are often reluctant to retreat from extreme positions or to reveal how they prioritize their interests. [This] reduces [the] likelihood of bringing about agreement. It also reduces the likelihood that the arbitrator will have an accurate view of the parties’ priorities.”

Also part of the Presidential Commission’s recommendation is a proposal that would replace the parties’ current practice – which uses a three-member arbitration panel, in which each party chooses one arbitrator and then the parties jointly select one neutral arbitrator – with three professional arbitrators. In our view, this change would have extremely negative consequences for the arbitration process, as it would completely remove the parties’ respective representatives and their unique expertise from the arbitral decision-making process. It makes it much more likely that the eventual arbitration decision will be contrary to the desires of either or both parties. It also severely reduces the likelihood that the parties might be able to mediate and settle (or narrow) their dispute during the arbitration process.

The Commission also has recommended that, after the arbitration decision is issued, the parties have ten days to review the decision and possibly bargain changes agreeable to both union and management. This proposal would be completely unnecessary if the current process allowing for each party to have a representative involved in the arbitration decision-making were

maintained. It also poses problems for most unions, such as the NPMHU, that require membership ratification after any bargained agreement.

The Commission also has recommended that the binding interest arbitration be required to use the “last best final offer” model, in which each party is required to submit a total package of proposals, and the arbitration panel is required to choose one or the other package, and cannot compromise between the two. In theory, this would place extraordinary pressure on both sides to produce reasonable, workable compromises that incorporate the interests and priorities of both parties. Sometimes this model of arbitration would be helpful, but other rounds of bargaining would not be helped by requiring last best final offers. The current statutory model allows for last best final offer, and in fact it has been used in certain rounds of bargaining. But making such a system mandatory, through legislative change, would not be helpful, as it would remove the flexibility from the current system, which specifically allows the parties to use the last best final offer or any other process that they mutually believe would help to resolve the bargaining dispute.

At bottom, no one involved in the bargaining process, including the Postal Service itself, has ever offered a convincing reason for amending the current statutory language into a set of locked-in, inflexible procedures that are certain to displease one or both parties at some point in the future. The current provisions, which grant flexibility to the parties to determine, in each round of bargaining, what procedures should be followed to best settle their



dispute, should be maintained. An unjustified change in the statutory language is not reform; it simply is an unjustified change.

I understand that the history of bargaining that I have described is not noteworthy of news coverage. It certainly would be more exciting if postal employees were covered by the National Labor Relations Act, like UPS employees, so that they could strike at each impasse in negotiations, or if postal employees were covered by the Railway Labor Act, like airline or railroad employees, so that Congress could be asked to intervene in labor disputes. Frankly, I believe the nation is better off with bargaining and binding interest arbitration under the PRA than with those other models. Remember, when UPS suffered a total shutdown for several weeks in 1997, it was the Postal Service and its employees who willingly took on the monumental task of processing and delivering millions of additional packages during that UPS strike to ensure that the American economy was not damaged. I assure you that UPS could not substitute for the Postal Service if postal employees ever were to engage in a work stoppage.

My description of postal collective bargaining also has the advantage of being true and accurate. To be sure, the actual facts and history of postal collective bargaining contradict the rhetoric that often emanates from so-called postal commentators and critics. Remember, none of those commentators ever has sat at the negotiating table or otherwise engaged in collective bargaining in the Postal Service. Their real complaint – if they even had a complaint – is with the results of collective bargaining, not with the process.

Our current contract or National Agreement provides mail handlers with semi-annual cost-of-living adjustments (COLAs) that guarantee small wage improvements approximating 60% of the increase in the Consumer Price Index. The existence of this COLA provision means that employees receive relatively small general wage increases. In the aggregate, wage increases in the Postal Service are non-inflationary. Since enactment of the PRA in 1970, postal wage increases have been less than the rate of inflation measured by the Consumer Price Index, and less than salary improvements granted by the federal government or by large employers in the private sector. For example, as of next month, when the next COLA payment is calculated, postal employees this year will receive a wage increase of less than 2.5%, whereas federal employees are expected to receive 4.1%, and private-sector bargaining agreements are now averaging above 3%.

Many also ask about the relationship of wages to productivity. During the past three decades, the productivity of mail handlers and other postal employees has increased dramatically, including notable increases in productivity during the past year. The Postal Service today processes and delivers more than 200 billion pieces of mail using approximately 725,000 employees. Not too many years ago, approximately the same number of employees was used to process and deliver one-half as much mail. Through a combination of automation, improved mail flow, and other means, today's mail handlers and other postal employees are more productive than ever before.

Indeed, the Postal Service recently reported that 2004 will mark a record fifth straight year of positive productivity growth.

There was consistent testimony before the Presidential Commission – from postal management, from the NPMHU and other postal unions, and even from a panel of highly-respected, neutral arbitrators – that the current collective bargaining process is working well. For thirty-three years, the parties have successfully used the current statutory process and avoided the labor strife and economic warfare that often characterizes private-sector labor-management relations. Arbitrators and participants all agree that the process has improved dramatically over the years, and may be a model for other labor-management negotiations. There is, in short, no reason whatsoever to amend the statutory provisions governing collective bargaining, or to otherwise adopt provisions that would allow outside entities to interfere in the bargaining process.

The NPMHU also strongly opposes calls for increased privatization that might be aimed at mail handlers or other postal employees. Privatization as a means of eliminating hundreds of thousands of career postal employees is more a political ploy than a practical solution. Even more pernicious, however, can be proposals to privatize smaller parts of the Postal Service through increasing the subcontracting of traditional postal work to private contractors. If countenanced, such subcontracting could mean that the Postal Service would lose the services of dedicated career employees at precisely the wrong time in our nation's history. Not only do postal employees have a special

understanding about how to process mail efficiently and effectively, but in recent years they have been especially adept at dealing with issues related to mail security, and working to protect the American public against anthrax attacks, mail bombs, or other hazardous materials or similar threats of terrorism that might, and sometimes actually do, find their way into the U.S. mail. The American public and Congress finally have recognized that only federal civil servants, and not low-paid and untrained subcontracted employees, are capable of protecting our nation's airports and border crossings. The nation needs similar homeland security for its mail. As with airport security, a dedicated workforce of professional postal employees is the best defense against those who would use the mail to harm our national security.

It bears noting, moreover, that many examples of recent subcontracting by the Postal Service have been colossal failures. Approximately five years ago, for example, the Postal Service decided to contract with Emery Worldwide Airlines to process Priority Mail at a network of ten mail facilities along the Eastern seaboard. Today, the work at those facilities finally has been returned to mail handlers and other career employees, but not before the Postal Service suffered losses in the hundreds of millions of dollars. At a recent meeting of the USPS Board of Governors, one Governor said publicly that the Emery subcontract was one of the worst decisions that the BOG ever had made.

A similar story can be told about outsourcing of the Mail Transportation and Equipment Centers, or MTECs. Several years ago, about 400 mail handlers were displaced from these facilities, in favor of private-sector

employees working for contractors who passed their costs on to the Postal Service. The Office of Inspector General has audited these contracts, and has concluded, once again, that the Postal Service has wasted tens of millions of dollars in the inefficient use of these contractors, and that the same work, if kept inside the Postal Service, would have been performed more cheaply. Congress should not follow the Presidential Commission's suggestion to encourage similar errors with additional subcontracting.

The Presidential Commission also has proposed that the PRA be changed to require the postal unions and the Postal Service to bargain over health insurance, pensions, and other benefit programs. In fact, the current employee-contribution rates for health insurance already are bargained, and the health benefits themselves – established through the Federal Employees Health Benefit Act – are universally acknowledged to be well maintained and well negotiated by the Office of Personnel Management. The NPMHU happens to be the sponsor of one of the largest federal health plans, and I can assure you that if the Postal Service ever were to withdraw from the federal employees health system, chaos would be the result. As for pension benefits, with the passage last year of the CSRS-fix legislation, all pension benefits for postal employees are now fully funded. The Commission's recommendation on bargaining benefits, therefore, is clearly aimed at guaranteed health insurance for postal retirees. The NPMHU sees absolutely no reason why promises of lifetime health insurance to postal employees should be subject to collective bargaining, especially when the federal government provides these benefits to

federal employees through legislation, and many other large employers provide similar benefits. In any event, recent proposals from postal management would allow the Postal Service to ensure funding of these retiree health costs by using the escrow account now available because of pension overfunding. That is an appropriate use for those funds, and should be part of any postal reform.

\* \* \*

Finally, I would be remiss if I did not address the Presidential Commission's attempt to analyze labor-management relations by looking at the number of pending grievances. For many years, the parties – both during collective bargaining and while contracts have been in effect – have worked strenuously to adjust the grievance process to ensure more timely and less costly dispute resolution. Most notably, a few years ago the NPMHU and the Postal Service agreed to produce a Contract Interpretation Manual or CIM that would set forth the parties' joint interpretation on literally thousands of contract issues, and I am extremely pleased to report that, last year, the CIM was finally published. This 300-page manual, as promised, is a compendium of the parties' joint understanding on the meaning of their contract. Between July and October 2003, we jointly trained more than one thousand union and management representatives, from virtually every large postal installation that employs mail handlers, on how to use the CIM to resolve disputes without the need to file a grievance or proceed to arbitration. Early results are extremely encouraging, as the parties' local representatives work diligently to settle their

pending disputes and to prevent future disagreements. This is just one model for how the parties are able to resolve their own problems, without legislative interference.

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Finally, let me emphatically state the NPMHU's support for the positions recently stated by Postmaster General Potter with regard to the two financial issues that remain from last year's Civil Service Retirement System legislation. First, the NPMHU urges Congress to shift from the Postal Service, back to the Treasury Department, the retirement liability costs of postal employees whose military service occurred before they became postal employees. Continuing to impose this obligation on the Postal Service would transfer payment of more than \$27 billion from American taxpayers to postal ratepayers, and we see no justification for such a transfer. Second, the Postal Service should be freed of the financial constraints included in the CSRS legislation, which requires the Postal Service to put CSRS savings beginning in fiscal year 2006 into escrow pending congressional review. This requirement, if allowed to continue, would negate the benefits that the CSRS legislation made possible, and would unjustifiably impose higher than necessary rate increases on the Postal Service and its customers. As the representative of employees who desire a strong and successful Postal Service, the NPMHU sees no justification for continuing this escrow arrangement.

\* \* \*

Thank you for allowing me to testify. I would be glad to answer any questions you may have.

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February 17, 2004

The Honorable Senator Susan Collins  
 Chairman  
 Senate Governmental Affairs Committee  
 U.S. Senate  
 Washington, D.C. 20510

Dear Senator Collins:

It was an honor to testify before your Committee on the subject of U.S. Postal Service workforce issues. I regret that we did not have more time to fully discuss the issues, but I trust my full statement to the Committee will address many of the matters that your Committee is investigating. I wish to provide your Committee with some additional information for the record and to clarify my response to a question that came up at the end of the hearing.

Attached please find a copy of the statement I submitted to the President's Commission on the United States Postal Service in response to the testimony of Dr. Wachter to that body. Its key conclusion is that Dr. Wachter's finding on pay comparability is incorrect since his model focuses excessively on employee characteristics instead of job and industry factors and fails to take into account the crucial issue of firm size. Comparable "levels of work" means a lot more than the human capital traits and inadequately measured job factors included in the Wachter model. My research also shows that large firms, regardless of industry or measurable employee characteristics, typically pay better wages. They do so for very good reasons (to retain stable workforces and to boost productivity) and the Postal Service should do the same. Beyond that, it seems to me that the unions' standard of wage comparability – which looks to the pay and benefits of large private companies like Federal Express and UPS – makes much more sense than Dr. Wachter's approach. By this standard, postal pay and benefits certainly fall within the standard of comparability established by the law.

At the end of the hearing, Senator Carper asked me whether I agreed with Dr. Wachter that postal unions should negotiate benefits as well as wages. In light of your need to leave for a vote in the Senate, I quickly responded "yes," but I did not get a chance to elaborate. Of course, the issue is a bit more complicated. Since postal management and postal unions already negotiate health insurance premiums, it is not clear to me that bargaining the details of specific health plans will add much value to the process. Furthermore, the fact that the existing pension arrangements have been well established for decades and cover all other federal employees should raise questions about the wisdom of subjecting these benefits to direct negotiation. Thus, while as an abstract proposition I support collective bargaining of all aspects of compensation and conditions of employment, history and other industry-specific factors must be considered when recommending policy. Having considered these factors here, I would not support changing the law in this area.



Senator Susan Collins  
February 17, 2004  
page 2

Thank you for the opportunity to testify, and please do not hesitate to contact me if I can be of further assistance to you and to your Committee.

Sincerely,

A handwritten signature in black ink that reads "James Medoff". The signature is written in a cursive, slightly slanted style.

James Medoff  
Meyer Kestnbaum Professor of Labor and Industry

cc: Sen. Thomas Carper



## National Association of Letter Carriers

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Affiliated with the AFL-CIO &  
Union Network International

May 29, 2003

Mr. James A. Johnson and Mr. Harry J. Pearce  
Co-Chairs  
President's Commission on the U. S. Postal Service  
1120 Vermont Avenue, NW  
Suite 971  
Washington, D.C. 20005

Dear Mr. Johnson and Mr. Pearce:

At your field hearing in Chicago, Dr. Michael Wachter, who has served as a management-side witness in a variety of interest arbitration proceedings in the past, presented testimony to the Commission on the issue of postal pay comparability. Unfortunately, the Commission heard only one side of the debate about the issue. A few days before the hearing, Executive Director Dennis Shea graciously offered NALC the opportunity to make our consultant, Dr. James Medoff of Harvard University, available for the hearing. Dr. Medoff could not attend the April 29 hearing so Mr. Shea agreed to accept a written reply to Dr. Wachter's statement instead. Dr. Medoff's reply statement is attached.

In addition to encouraging you to share Dr. Medoff's statement with the full Commission, I wish to make a couple of additional points.

First, NALC defines pay comparability for city carriers in terms of the pay of delivery personnel employed by other national delivery companies – i.e., Federal Express and United Parcel Service. In February 2002, the most recent month for which we have comparable data, city carriers earned a starting wage of \$15.85 per hour and were paid a maximum rate of \$20.98 per hour after 12 ½ years on the job. This level of pay falls in the range of pay available to FedEx couriers and UPS drivers. Although FedEx maintains seven different pay ranges across the country, couriers working in medium to large metropolitan areas start at a low of \$14.49 per hour and reach top pay of \$21.58 per hour after four to five years. UPS drivers earned an average starting wage of \$16.21 per hour and reached an average top rate of \$23.17 per hour after two years. It should be noted these figures represent base pay; FedEx maintains an even higher pay range for the San Francisco area and local agreements between the Teamsters Union and UPS provide for even higher wages in certain regions of the country.

Second, as I stated in response to a question in Chicago, no arbitration panel looking at the issue of the comparability of city carrier pay to private sector pay (as distinct from overall postal employee pay) has ever concluded that a city carrier wage premium exists. Neither the Stark panel (1995) nor the Fleischli panel (1999) ruled that city carrier pay violated the comparability standard. Indeed, NALC provided extensive evidence and expert testimony from Dr. Medoff and other academic witnesses to rebut Dr. Wachter's opinion.

Mr. J. Johnson and Mr. H. Pearce  
May 29, 2003  
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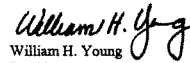
Although neutral arbitrator Stark did award "wage increases even more modest than those contained in the award of the Mittenhall Board," he did not justify the increases as necessary to achieve "continued moderate restraint" as Dr. Wachter implied in his Chicago testimony (p. 13). To the contrary, the Award indicates that Stark was responding to his perception of the poor state of USPS finances at that time. ("Clearly the economic problems facing the Service, its employees, and its customers, are significant." p. 39)

This Commission would commit a grave error if it were to misinterpret the meaning of the recent Goldberg and Wells Awards (which covered other bargaining units) or even the decade-old Kerr and Mittenhall Awards (which covered the NALC as part of a Joint Bargaining Committee with the APWU). While these awards concluded that a wage premium existed, they never adopted a precise estimate of the size of the premium. Certainly, none have adopted Dr. Wachter's estimate of a 21 percent wage premium.

Thus, Dr. Wachter has no basis to argue that the policy of "moderate restraint" failed because annual postal pay increases did not sufficiently fall short of annual increases in the Employment Cost Index for private sector workers over the past two decades (see p. 15). Similarly, the argument that a postal wage premium is costing the USPS \$9 billion annually, a claim included in the PRC's testimony to you (see p. 2 of Robert Cohen's testimony of February 20, 2003) that is based entirely on Dr. Wachter's one-sided advocacy work, is seriously misleading. Both claims assume that an arbitration panel has formally accepted Wachter's precise estimate of the postal wage premium. That has never happened. The unions' witnesses, while rejecting Dr. Wachter's definition of comparability, have at a minimum demonstrated clearly that Dr. Wachter's model grossly overstates the postal wage differential.

Finally, I believe it is important for this Commission to keep the issue of postal pay in proper context. The average postal salary (for bargaining unit employees) now stands at \$41,680 annually, which in real terms (adjusted for inflation) is slightly less than the average that existed when the USPS was created in 1971. The typical postal employee making this salary is very likely a veteran who is in his or her mid-forties with 11 or 12 years of experience on the job. He or she is most likely married and has one or two children. He or she works hard and provides a valuable service to the public and to the American business community. For this, he or she earns a middle-class standard of living. That is as it should be, and the Commission would badly damage postal labor relations if it were to conclude otherwise.

Sincerely,

  
William H. Young  
President

Enclosure

**Statement of James L. Medoff**  
**to the**  
**President's Commission**  
**On the United States Postal Service**

## HARVARD UNIVERSITY

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I am the Meyer Kestnbaum Professor at Labor and Industry at Harvard University, where I have been employed since 1976. At the request of the National Association of Letter Carriers (NALC) I have prepared this response to the statement of Michael Wachter to the President's Commission on the United States Postal Service on April 29, 2003.

I have published numerous academic papers and several books relating to the topic of wage differentials that exist between different workers in the U.S. economy. I have also served as a consultant to numerous private sector companies on related issues, as well as for governmental and quasi-governmental agencies including the Congressional Budget Office and the Board of Governors of the Federal Reserve System. I served as a consultant to NALC in connection with the arbitration hearing before the Fleischli panel in 1999.

I disagree strongly with Dr. Wachter's overall conclusion about postal wage comparability, and I take issue with many of the points he raises in its support. Most saliently, I take issue with the definition of "comparable levels of work" that underlies the whole of Dr. Wachter's statement. The phrase is of course subject to interpretation, but Dr. Wachter seems to take it for granted that all workers in the private sector that are "identical in age, years of service, education, occupational category, region of residence, and city size" can be assumed to work at "comparable levels" as required by the statutory standard. The validity of this interpretation is certainly not self-evident, and I do not believe that any labor economist who considers the issue with any depth can regard it as an appropriate interpretation.

Dr. Wachter also mis-characterizes the postal unions' definition of comparability. Certainly NALC does not "propose a standard whereby postal wages are compared implicitly to wages for private sector workers who are white male, unionized, and in large firms." (See p. 10 in Wachter's statement.) The union has long rejected Wachter's approach to comparability, which equates "comparable levels of work" with a comparison to private sector workers with "similar individual and job characteristics." Such a comparison misses what we know matters in the labor market and what must be included in any definition of "comparable levels of work" – working conditions, industry structure and firm characteristics. Thus, NALC reasonably compares its members pay to that of delivery workers employed by other national delivery companies – namely, UPS and Federal Express. I would note that both firms employ women and minorities and one of the firms is not unionized (FedEx).

With respect to his own implicit standard of comparability, Dr. Wachter starts with a misleading claim. He states that multivariate regression is "the generally accepted method for estimating wage differentials." While I agree that multivariate regression is a widely accepted statistical technique by which labor economists can estimate wage differentials, it is rarely if ever used by individual firms to set pay rates for specific occupations.

It must be noted that the validity and meaning of the results of any particular regression analysis are critically dependent on the underlying economic theory and whether it has been appropriately

applied. Dr. Wachter's statement does not effectively address this issue. In fact, he has misapplied the relevant theory by choosing an arbitrary set of variables that omit certain critical ones. I take particular issue with his treatment of relevant factors such as industry, union status and firm size.

Although Dr. Wachter initially accounts for industry differentials, when he calculates the overall postal premium he averages out these industrial differences and then applies the economy-wide result to the Postal Service with no theoretical justification. In this way, large, low-wage and clearly unrelated industry groupings such as retail sales and banking are considered along with obviously relevant industries such as the so-called TCU industries – transportation, communications and public utilities.

Dr. Wachter attempts to defend his failure to control for union status, but here again his arguments are misleading. According to Dr. Wachter, the principal rationale for including such a control would be "the assertion that higher union wages in the private sector are entirely capturing otherwise unmeasured worker skills so that the union wage premium is essentially zero." Certainly I have never made such an assertion, and to my knowledge this is not a position held by other economists who have worked with the postal unions. My research on the subject (discussed in my book *What Do Unions Do?* with Richard Freeman) recognizes that other factors beyond worker skills are operative in making unionized firms more productive. In particular, unions give workers a "voice" – a safe way of expressing their needs without leaving the firm. This leads to a more stable and productive work environment, increasing tenure and reducing training costs associated with the high quit-rates common in non-union firms. Workers from unionized firms are significantly less likely to quit even than equally compensated workers from nonunion firms. The low Postal Service quit rate that Dr. Wachter cites (in another context) is, among other things, an indication of the postal unions' effectiveness in giving their members a voice.

Another controversial issue is firm size. My research (discussed in my article "The Employer Size Wage Effect" published in the October 1989 issue of the *Journal of Political Economy* and in my book *Employers Large and Small*, both co-authored with Charles Brown) indicates that firm size is a critical determinant of labor market outcomes. Over time and regardless of industry or country, I have found that large firms pay significantly higher wages to seemingly similar workers – typically on the order of 20-25 percent more – than do smaller firms.

Dr. Wachter argues that the firm size variable is largely irrelevant in the case of the Postal Service because, while the firm size is large, the average establishment size in the USPS is not. This argument might be valid if his regressions could be done with accurate measures of both firm size and establishment size. Dr. Wachter's regression is based entirely on data from the Current Population Survey (CPS) compiled by the Census Bureau. The data from the CPS lumps all firms with more than 1,000 workers together into one category. This means that including the establishment size variable leads to highly misleading results in the case of the Postal Service. The USPS is an "extremely large" firm, but because of the relatively small size of its establishments, Dr. Wachter's analysis will effectively consider it comparable to firms that are not even "large".

In short, Dr. Wachter's conception of "comparable levels of work" is deeply flawed and his model of the labor market is misleading and incomplete. I have never personally or professionally found his claims of a postal wage premium convincing. The NALC's approach to comparability, which focuses on similar workers performing similar functions in national delivery firms that compete with the Postal Service is much more compelling. I urge the Commission to rely on the common sense exhibited by the union's approach and to treat Dr. Wachter's testimony with an appropriate level of skepticism.

U.S. Department of Labor

Assistant Secretary for  
Employment Standards  
Washington, D.C. 20210

FEB 24 2004

The Honorable Susan M. Collins  
Chairman  
Committee on Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Chairman Collins:

I understand that the Senate Governmental Affairs Committee recently held hearings on February 4 and February 24, on measures that could be taken to reform and reduce operating costs of the U.S. Postal Service. Among the proposals being considered, pursuant to a set of recommendations made by the President's Commission on the United States Postal Service, are certain amendments to the Federal Employees' Compensation Act (FECA). As you know, FECA is the statute under which Federal employees are provided benefits for work-related injury or illness, and it is administered by the Labor Department's Employment Standards Administration, Office of Workers' Compensation Programs.

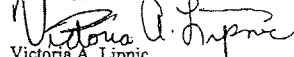
While the Postal Service is the largest client agency of this program, the issues raised in the Postal Commission's FECA recommendations are applicable to all Federal agencies and their employees. I am pleased to report that the President's FY 2005 Budget contains a legislative proposal to reform the FECA program. As indicated in the Budget, the proposal is a balanced reform package, including measures to enhance incentives to return to work; address equity issues between FECA recipients and Federal retirees; provide improved benefits to injured workers in some circumstances; adopt effective state practices; and correct other flaws in the structure of the FECA program. The FECA has not been significantly amended since 1974, and we believe the package the Administration is proposing will be an important and long overdue reform of the program.

The major features of the Budget's FECA reform proposal are provisions to provide FECA beneficiaries a "converted" benefit level after they reach the Social Security Act's (SSA) retirement age (a benefit level consistent with normal retirement pension benefits); an increased basic benefit for all recipients, coupled with elimination of the augmentation of benefits for dependents; restoration of a meaningful 3-day waiting period; and restructuring so-called "schedule awards" for permanent impairment to allow them to be paid simultaneously with wage-loss compensation. These reforms will produce ten-year Government-wide savings of more than \$500 million, improve the functioning of this important employee benefit program, and better coordinate its benefits with other programs.

The Department of Labor welcomes your Committee's interest in identifying potential improvements to the FECA program, and we strongly recommend that any reform proposal be applicable to the entire Federal Government. In addition, DOL would be happy to meet with the Committee to discuss the Administration's proposal.

Thank you for the opportunity to address this issue, which is so important to employees of the Postal Service and to all Federal agencies.

Sincerely,

  
Victoria A. Lipnic  
Assistant Secretary



**National Association of Postmasters of the United States  
Office of the National President**

March 4, 2005

Honorable Susan M. Collins  
Chairman  
Senate Committee on Governmental Affairs  
Washington, DC 20510

Dear Chairman Collins:

Herewith, I am responding to the post-hearing question posed by Senator Daniel Akaka.

**You explained that different post offices perform different functions that affect their revenue. How will these different functions be weighted under the new pay for performance system and will there be a bias against post offices that have non-revenue functions?**

As I stated in my oral and written testimony, all post offices, regardless of size and revenue, contribute value to the Postal Service.

It should be noted that the larger post offices have increased operational responsibilities and opportunities to generate revenue. Under the new performance based compensation system, NAPUS does not envision a significant impact on the measurement of assessing performance, because a postmaster's performance has been historically evaluated against the previous year. Nonetheless, we remain concerned for our smaller post offices, since declining revenue and reduced hours of operation significantly and adversely affect smaller post offices. The postmasters of these facilities, that have severely limited opportunities to grow revenue, will need to work with postal management to establish reasonable and attainable goals.

I appreciate the opportunity to provide the Committee with the requested information.

Sincerely,

Walter M. Olihovik



**Responses of the League Of Postmasters to  
Post-Hearing Questions for the Record  
Submitted To Steve LeNoir From  
Senator Daniel K. Akaka**

**Question 1. Your testimony discussed the need for more flexibility in the workplace and that current rules prohibit craft employees from doing work in other crafts. Could you provide us with an example, and are there instances where an employee moving from one work post to another can be accomplished.**

**Answer:** Clerks case mail for city and rural carriers to deliver. However, even if there is a need for a replacement on a delivery route, the clerks can not deliver the mail. In many instances an employee working overtime (1.5 times the hourly wage) or even penalty overtime (two times the hourly wage) must deliver the mail.

Larger offices are more negatively affected by the no-crossing-crafts rule than smaller offices. However, it is still a problem scheduling and completing the work ultimately costs more.

In larger offices, mail handlers unload the tractor-trailers of mail, transport throughout the facility, breakdown the containers, and prepare the mail (cutting straps, trayng, etc.) for clerks to distribute or otherwise process on mail sorting equipment. This again causes the use of more work hours and additional costs because a mail handler and clerks are not permitted to cross crafts and perform other duties. When there is a shortage of mail handlers, and/or clerks, many times management must use overtime and penalty overtime to accomplish the task. This may even cause management to utilize "mandatory overtime" and force employees to work who do not want to work. Understandably, this can and does cause grievance activity.

Rural Carrier Associates (RCA) and Temporary Rural Carriers (TRC) can not be used to carry mail on a city carrier route even though they are trained to properly deliver mail. (Note that they may be able to do so as a dual appointment, but there are supplemental workforce hiring caps per the negotiated agreement.)

Retail Sales and Service Associates (SSA's) formerly called window clerks can not deliver mail, make collections and city carriers can not sell stamps, packages, etc. at the retail counter line. If there were a universal employee, a manager/postmaster could better serve customers and save money with increased flexibility.

**Question 2. For many Americans, their local post offices are the only contact with the federal government and serve as a gathering place for their communities, especially in rural areas. The Commission appropriately rejected using profitability as a reason for closing a post office. Would you explain how a community could voice its opinion on the closing of a post office and whether an individual postmaster is also a part of the process?**

**A. The Process.**

When the Postal Service is considering closing a Post Office, customers normally are provided with questionnaires asking them to furnish information as to the type of postal services they require.

Customers also are asked about non-postal services received from their postmaster. Some of the non-postal services received are:

- Reading letters for customers who are illiterate.
- Preparing money orders for customers to pay bills.
- Acting as a message center for the community.
- Acting as a covered school bus stop.
- Providing various government forms and pamphlets.
- Holding prescription drugs for pickup and handling them in an environment that is safe (i.e., prescription drugs are not exposed to the elements or possible theft when left outdoors in a roadside mailbox.)

Of major importance to residents is the community identity a post office provides and in many instances the postmaster of a small community unofficially serves as a representative of the entire federal government.

After completing the review and analysis of customers who completed a questionnaire, the Postal Service addresses each comment and concern. A community meeting is often held in the town with postal representatives to discuss the community's concerns and comments. All concerns and comments with appropriate responses are maintained and kept in a file.

Based on the findings, the district manager makes an initial decision on whether to pursue the closing. If he decides to pursue the closing, a written document (proposal) is posted for sixty days with an invitation for public comments from affected community residents/customers. After analyses, all comments/concerns received are responded to in writing and a copy of all correspondence maintained in the file. Additionally, during the sixty-day posting period customers may review all the documents in the file.

Based on the information gathered, the district manager then can keep the post office open or submit the proposal to postal headquarters for a final decision. If it is decided to keep the office open customers are notified of the decision. When a decision is made to close, representatives at postal headquarters review the data submitted and a final decision is made.

When a final decision is made at Headquarters, a Final Determination is prepared and this document along with the file are returned to the appropriate district office. The Final

Determination is posted for thirty days and customers have access to the file. Along with the posting are instructions to customers that they have appeal rights and may appeal the post office closing decision to the Postal Rate Commission.

The Postal Rate Commission serves as the consumer advocate for customers in a post office discontinuance case. The Commission has 120 days to render an opinion. They either affirm the decision of the postal service, remand the case back for further consideration or dismiss the appeal.

**B. Postmasters involvement**

The existing statute requires the postal service to consider the effect on employees when proposing to discontinue a post office. Usually, the only employee of a small office is the postmaster and a non-career employee who replaces the postmaster on days off and vacations.

Additionally, postmasters play key roles in post office closing cases because they have hands on knowledge on customer needs as well as any unusual circumstances. Postmasters know of handicapped customers needs and the specific needs of elderly customers. This information is provided to the postal employees handling the proposed closing and is obviously valuable in ensuring that customer needs are met.

**Answers to Post-Hearing Questions for the Record  
Submitted by Ted Keating, Executive Vice President, National Association of Postal  
Supervisors  
To Senator Daniel K. Akaka**

**“Preserving a Strong United States Postal Service: Workforce Issues”**

**February 4, 2004**

**Question 1 -- As you know, the Commission pointed to the Postal Service’s grievance process as an area of concern. I was interested in your testimony, which touched on the use of a streamlined grievance process involving dispute resolution teams made up of representatives of management and unions. However, you expressed concern that there is a growing reliance on these dispute resolution teams of non-binding arbitration decisions as precedent. Could you explain this more fully?**

Answer: The Dispute Resolution Team (DRT) process is being used by the U. S. Postal Service as an attempt to resolve issues brought about by craft employees at the local level. If the issue cannot be resolved, it is then moved to arbitration.

The issues include contract disputes and workplace problems that the union claims are in violation of the “Joint Statement on Violence and Behavior in the Workplace” signed in 1992 by representatives from the Postal Service, craft unions and the three postal management associations.

Let me say at the onset, that this statement has done nothing for supervisors, managers or postmasters. The unions have routinely wielded this as a weapon against us, and supervisors, managers and postmasters are the only ones that have been harmed by the signing of this agreement.

When it was first presented to NAPS in 1992, the statement was in response to a tragic shooting in a postal facility in Michigan. We hesitated because it had been written by union attorneys. Nevertheless, our former president signed in good faith, wishing to cooperate during a time when foremost in our mind was preventing another tragedy involving real violence in the workplace.

Well, history has proven us right. The craft has overreached by using the joint statement as a platform for claims ranging from allegations of threatening behavior or loud language to claims of “touching” by a supervisor – claims that have little to do with violence and are far more appropriately handled through existing workplace environment committees.

DRTs are made up of a union official and a Postal Service supervisor who are trained to apply arbitrators' decisions when trying to resolve local issues. This process may be acceptable if it involves a contract dispute. However, it is a well-known fact that too many arbitrators believe they have the power to discipline supervisors, managers and postmasters when it involves what they perceive as workplace "violence" issues. Other arbitrators (rightfully, we believe) say they do not. The Postal Service has indicated that they do not believe that arbitrators have the right to discipline supervisory or managerial personnel. However, they sit on the fence regarding this issue, undoubtedly to prevent offending the craft unions.

Although arbitrators' decisions are not in and of themselves precedent-setting they may stand as precedent within a particular area of the Postal Service where the complainant works. The Postal Service will contest an arbitrator's decision if it includes "adverse action" such as a downgrade or removal, which is appealable to the Merit Systems Protection Board (MSPB). However, the Postal Service will readily accept the arbitrator's decision when the punishment involves rulings that cannot be appealed to the MSPB, such as forcing the supervisor to write a letter of apology, sending the perceived offender to sensitivity training, or – worse yet – permanently removing supervisory responsibility from the employee.

As you can imagine, the impact of decisions to deny supervisory responsibility to these supervisors has caused significant harm to their careers, as they must then seek employment outside the supervisory arena. And unfortunately, because DRTs are questionably applying arbitrator decisions, they have unilaterally begun to impose the same or similar punishments on supervisors. The injustice of these actions is that the alleged offender receives no due process through right of appeal to the Merit Systems Protection Board because in accordance with MSPB, they do not constitute "adverse action." This in spite of the fact that they appear to represent a constructive downgrade, and are certain to result in future denial of promotion.

The National Association of Postal Supervisors proposes that instead of these Dispute Resolution Teams, impartial mediators should be used to resolve workplace issues and alleged violations of the workplace agreement. The neutrality that a third-party brings to resolve these disputes, and the conclusive resolution of the underlying dispute, is far preferable to the current approach. We urge the Committee to conduct further oversight into this area.

**Question 2 – The Postal Service has reduced its career workforce by over 80,000 employees since its peak employment level in 1999. These reductions have been accomplished through attrition and voluntary early retirements. How have these reductions affected postal operations?**

Answer: Postal Service reductions in our career workforce have not significantly affected the performance of postal operations at this point, as increased productivity and the expanded use of overtime for craft employees have helped to offset the decline in workforce numbers.

However, we are concerned by the future impact that increased attrition and voluntary early retirements offered by the Postal Service will have upon the operational limits of the postal system, and the effect upon the quality of customer service and employee morale.

We are highly alarmed over the Postal Service's increasing use of craft employees as "acting supervisors." For the most part, these are craft employees who have either refused to enter the Postal Service's Associate Supervisor Program (ASP) which aptly prepares them for supervision, or who have failed the initial screening process or the program itself.

Particularly troubling is the impact that their performance—or poor performance—will have upon collective performance measures that are integrated into our pay-for-performance system recently implemented strictly for supervisory and managerial personnel. These employees have no real stake in the new program's success, and are well aware that the worst that could happen to them is to be returned to their jobs in the craft, should they fail to perform supervisory duties in a satisfactory manner.

We commend Senator Akaka for his interest in delving into these issues and urge Committee oversight into this area.

Post-Hearing Questions for the Record  
Submitted to John Calhoun Wells  
From Senator Daniel K. Akaka

'Preserving a Strong United States Postal Service: Workforce Issues"

February 4, 2004

**Question 1. – Given your background as a commercial labor relations consultant and commercial arbitrator, I am interested in your views on the recommendation of the President's Commission that the neutral arbitration panel be composed of three neutral arbitrators instead of the current one neutral chairman and two partisan arbitrators.**

**What is your reaction to this proposal, and as an arbitrator did you find it valuable to have partisan arbitrators on the panel?**

I do not support the recommendation of the President's Commission that arbitration panels be composed of three neutral arbitrators. I speak from my experience where I found it invaluable to have the benefit of the knowledge and experience of the two other individuals on the panel who were partisan arbitrators. Clearly, the level of dialogue between the arbitrators and that which was directed to the parties was sharpened by the presence of seasoned postal/union professionals on the panel. The partisan arbitrators were particularly helpful to me in understanding the many complexities associated with the rural carrier delivery system. Needless to say, had the panel been composed of three neutrals it would have been much more difficult to wind our way through the process. Finally, I found the partisan arbitrators to be extremely helpful during the executive session phase of the interest arbitration.

**Question 2. – Do you believe that a price-cap system for rate setting, whereby the postal rates are restricted from rising more than a specified percentage, would be detrimental to the collective bargaining process, and if so how?**

I have never studied the impact of a price-cap system, nor have I had direct experience in such a context. Whether a price-cap system would impact on collective bargaining in some unique way, I cannot say. I do not have sufficient personal knowledge or experience with this issue to provide a substantive response.

**Question 3. – The four major postal unions have generally opposed any pay for performance system for employees covered by collective bargaining. Are there any other comparable companies with unionized workforces that have successfully implemented a performance-based compensation system as part of their collective bargaining process?**

During my oral testimony on February 4, 2004, I mentioned several firms that have attempted to implement pay-for-performance for unionized employees. I specifically mentioned the agreement between Kaiser Permanente and its AFL-CIO unions and between General Motors/Saturn and the UAW covering auto workers in Tennessee. I also mentioned several agreements in the steel industry. And I also referenced a professor at MIT, Tom Kochan, who has written on the topic of pay-for-performance. Professor Kochan would be an excellent source of information on this issue.

As I testified, implementing pay-for-performance for union employees is not an easy thing to do. It would be important, in my view, for such a system to be one that both parties jointly develop and willingly accept. I would think that a pay-for-performance system could only be successful in encouraging the desired behaviors when both parties place a sincere priority in working for its success.



Post-Hearing Questions for the Record  
Submitted to John Calhoun Wells  
From Senator Tom Carper

"Preserving a Strong United States Postal Service: Workforce Issues"

Hearing held: February 4, 2004

1. **As you know, the President's Commission has recommended making all postal benefits subject to negotiations during the collective bargaining process. There are a number of complications involved with doing this. However, isn't it true that a postal arbitration board charged with making a ruling in a pay dispute between the Postal Service and a union can look at the range of benefits postal employees receive and factor that into any decision they make on pay?**

My experience is that the parties to a postal interest arbitration proceeding do introduce evidence relating to overall postal employee wages and benefits. Thus, a postal interest arbitration panel has the opportunity to look at the range of benefits afforded to employees and give that some consideration in the arbitration decision. In practice, however, I do not believe that prior interest arbitration decisions make explicit the extent to which statutorily-mandated benefits influenced the panels' awards on wages or other bargainable economic issues. As such, it is not clear how interest arbitration decisions have taken into account, to the extent that they have, if at all, the range of postal benefits that are provided postal employees when pay decisions are made.

It is clear to me, though, based on my personal experience as Chairman of an interest arbitration panel, that whatever influence nonbargainable benefits have had on the economic decisions of postal interest arbitrators, it is not the equivalent of bringing those benefits into full play in the bargaining and interest arbitration process. While employee benefit data are presented in the hearing, the focus of the arbitration proceedings naturally tends to be on those issues that the arbitration panel must actually decide. Certainly, there would be more focus and attention on such benefits if the panel was being called upon to decide on proposed changes.

2. **As you know, the President's Commission has recommended that a new postal regulatory body develop a new definition of pay comparability and use that definition to set a cap on postal compensation. Is there anything in current law today that prevents a postal arbitration board from making an informed decision as to whether postal compensation is comparable to private sector**

**compensation and acting on that decision? Is the commission's recommendation necessary?**

To the best of my knowledge, there is nothing in current law today that prevents an interest arbitration panel from making as informed a decision on the issue of postal comparability as any regulatory body would be able to make. Certainly, the parties are given a full opportunity to make their respective cases. I believe that the collective bargaining process can deal with the issue of determining postal comparability, just as it is suited to deal with issues of employee benefits. In my mind, a belief in the effectiveness of collective bargaining naturally leads to the inclusion of both comparability determinations and employee benefits in the process. That process includes the negotiations phase as well as any dispute resolution procedures that the parties undertake to resolve their differences.

I would suggest, however, that it would be extremely helpful to the interest arbitrators to have a clear definition of comparable to what? For example, does comparability in the postal context mean comparable to wages in the entire U. S. economy? Does it mean comparable to wages in the largest corporations in the U. S. economy, such as the Fortune 500? Or, does comparability mean comparable only to the wages in the unionized sector of the economy? Specificity on the meaning and intent of the comparability wage question is important.

**3. You state that the contract negotiations between the Postal Service and the National Rural Letter Carriers' Association in which you participated lasted about 14 and one-half months. What was the reason for this delay? Did the two parties mutually agree to a lengthier process or is there some loophole in current law that allows or encourages long delays?**

There were several reasons for the length of time in resolving the dispute between the Postal Service and the National Rural Letter Carriers' Association. Some of that time elapsed prior to my personal involvement, but my understanding of the sequence of events is as follows. The negotiations between the Postal Service and the National Rural Letter Carriers' Association ended on November 20, 2000 without a negotiated agreement. On that same date, negotiations also ended, again without agreements, between the Postal Service and two other major unions, the American Postal Workers Union and the National Postal Mail Handlers Union. While I am not directly familiar with the Postal Service's continuing activities with those unions, I understand that with the USPS-Rural Carrier dispute that I was involved in, the parties continued to negotiate till nearly April 2001 in the hopes of reaching a negotiated agreement. This continued attempt by the parties to reach a negotiated agreement caused a "delay" in ultimately resolving the dispute. Had the parties immediately

entered into dispute resolution after November 20, 2000, it is likely that the entire process would not have taken 14 and one-half months to conclude.

When it became apparent that there would be no agreement, the parties agreed to a memorandum of understanding that detailed how the dispute resolution process would work. This document was signed on April 13, 2001. Adding to the length of time the process took was the fact that the parties agreed to participate in a factfinding/mediation phase in an attempt to avoid interest arbitration. The parties met with me on many occasions during April-June of 2001 in factfinding/mediation. The parties and I were hopeful that a negotiated agreement could be reached as a result of factfinding/mediation. Unfortunately, this was not the case. Thereafter, on July 6, 2001, I was selected as the neutral arbitrator for the interest arbitration proceedings. The interest arbitration took place from that date forward with many days of hearings with an award decision reached on February 3, 2002.

Answers to  
Post-Hearing Questions for the Record  
Submitted to Michael L. Wachter  
From Senator Daniel K. Akaka

"Preserving a Strong United States Postal Service: Workforce Issues"

February 4, 2004

*Question 1. – Your testimony focused on pay premium and your belief that benefits should be included in postal collective bargaining negotiations. You noted that over the past 20 years, total USPS compensation costs have grown at virtually the same average annual compensation rate as total compensation growth in the private sector. Do these compensation costs for the Postal Service and the private sector include benefits?*

The total compensation growth rates that I cited in my oral testimony do include most benefits, including the costs of the retirement system, medical insurance costs for current employees, other insurance costs, and the costs associated with paid leave. As I noted in my written testimony a very important benefit, health benefits for retirees, is excluded from the total compensation growth rates. This is because the source I used to quantify private sector total compensation growth rates does not include costs associated with health benefits for retirees. Had I been able to include these costs, I am certain that the total compensation growth rates for the United States Postal Service (USPS) would have exceeded those of the private sector.

As I noted in my testimony, while there has been some narrowing of the postal wage premium with respect to the private sector since 1984, this has not been true for benefits. Specifically, whereas private sector wage growth has exceeded postal wage growth by 0.5 percent per year, postal benefit growth has exceeded private sector benefit growth by 1.1 percent per year since 1984.

*Question 2. – Although I agree with you that the Postal Reform Act does not direct parties dealing on the comparability issue to look at specific industries or the size of the workforce, you have interpreted comparability in a particular way. What brought you to the conclusion that congressional intent was to include companies, both large and small, union and non-union, in your pay comparability models?*

Congressional intent with respect to comparability is clearly spelled out in the Postal Reorganization Act. 39 U.S.C. § 1003 states that the U.S. Postal Service shall "maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for

comparable levels of work in the private sector of the economy.” The fact that the PRA refers to the private sector of the economy leads me to conclude that this was in fact the intent of Congress. I would also note that the concept of comparability for postal employees with private sector employees did not begin in 1970 with the passage of the PRA. Rather, the origin of the principle may be traced to Congressional enactment of the Postal Service and Federal Employees’ Salary Act of 1962 ( 5 U.S.C. §§ 5301) (“1962 Salary Act”). The 1962 Salary Act mandated that federal and postal “pay rates be comparable with private enterprise pay rates for the same levels of work.” 5 U.S.C. § 5301 (a)(3).

The PRA and its predecessor, the 1962 Salary Act, clearly mandate that postal compensation be compared with compensation received by employees throughout the private sector and throughout the national economy.

Moreover, there is other legislative history that also reveals clearly that postal compensation should be maintained with that of comparable workers throughout the private sector, and not just in selected portions of the economy. The House version of the PRA limited the comparability standard to employees in “major industries,” but this was rejected in favor of the broad reference to the private sector as a whole. (H.R. Conf. Rep. No. 91-1363, 91<sup>st</sup> Cong., 2d Session 153, 1970).

In light of the mandate of the PRA and earlier legislation, my statistical models do compare postal workers with workers in the private sector of the economy.

Moreover, this interpretation fits the standard interpretation used in regulatory economics. Achieving efficient and equitable regulation relies on achieving competitive outcomes. In the labor market, this means that postal workers should receive wages that are competitive with workers who are comparably skilled and do comparable work throughout the economy.

Answers to  
Post-Hearing Questions for the Record  
Submitted to Michael L. Wachter  
From Senator Tom Carper

"Preserving a Strong United States Postal Service: Workforce Issues"  
Received February 4, 2004

*1. You state that every postal arbitration board since 1984 has supported your contention that postal employees enjoy a compensation premium. You've argued that the postal compensation premium is anywhere from 20 percent to 35 percent. It is my understanding, however, that postal compensation, adjusted for inflation, is roughly the same as it was in 1970 after the passage of the Postal Reorganization Act. Where is the evidence that any postal arbitration board has attempted to set postal compensation 35 percent below what Congress decided was a reasonable rate in 1970?*

This question has several dimensions. The first issue deals with the last sentence relating to evidence that any postal arbitration board has attempted to set postal compensation 35 percent below what Congress decided was a reasonable rate in 1970. Clearly, no arbitration panel has made that statement. However, all postal arbitration panels that have addressed the issue have concluded that postal workers enjoy a pay premium. Since I provide a list of the panels' specific findings as to the existence of a pay or compensation premium in my written testimony, I will not repeat them here. I believe that their words speak clearly regarding their conclusion that postal compensation does not meet the statutory comparability requirement.

The second issue deals with the statement that "postal compensation, adjusted for inflation, is roughly the same as it was in 1970." This statement is fundamentally inaccurate for two reasons. First, the statement is not true once benefits are included. Postal benefits have far outstripped price increases for the period since the Postal Reorganization Act (PRA), at least as far back as we have data on benefits. Consequently, postal compensation has grown faster than inflation. Second, while the union's analysis on employee wage growth has focused only on the top step in the wage rate, this says little about how actual postal workers have fared. If the question suggests most postal workers have not had real compensation increases—even excluding benefits—it is incorrect. The reason is that step increases are an important part of the compensation increases realized by postal workers, and these step increases are not accounted for in the union's analysis of real wage growth.

Take, for example, the worker who joined the Postal Service in 1970 and remains employed today. That worker will have received wage increases that averaged 6.4 percent per year between 1970 and 2003. After inflation, that

worker's real wage will have increased 1.7 percent per year, for a cumulative real wage increase of roughly 77 percent.

The third issue is that the comparability standard compares the compensation of postal workers with the compensation of private sector workers. Although the question of real compensation is of interest, it is not directly responsive to the Postal Reorganization Act's mandate with respect to pay comparability. Both postal workers and private sector workers have been and continue to be affected by inflation. Real wage growth in top scales has been low for many private sector workers in the United States, particularly during the period of stagflation of the 1970s and into the early 1980s. The difference between the two groups is that postal workers have higher wages and benefits than do comparable private sector workers. Finally, postal retirement pay is inflation protected, an extraordinarily rare benefit in the private sector. Consequently, adding in concerns about inflation does not alter our comparability conclusions.

*2. As you know, Dr. Medoff and others compare postal employees compensation to that earned by employees at UPS, FedEx and other firms that perform comparable work. What kinds of workers do you compare postal employees to when you find your compensation premium? Why is this comparison appropriate?*

In performing our comparability analysis, my co-authors and I use a number of different databases. In our multivariate statistical analyses, the comparison is either with private sector workers with similar skills, or with workers with similar skills who perform similar tasks under similar working conditions. We find that when we add job trait data to individual skill data, the result is a higher postal wage premium. In the New Hire Survey, as explained below, we are comparing postal workers with themselves; that is, with their wage on their previous full-time job.

Our approach to comparability is both appropriate and consistent with the PRA, which requires a comparison across the private sector for workers doing comparable levels of work. Workers with similar skills and performing jobs comparable to postal jobs can be found throughout the economy in different industries and different occupations. Choosing a standard that is consistent with the literal meaning of the PRA also avoids a serious flaw in the unions' approach to comparability. By making selected choices of a few firms, but avoiding either a full sample of firms or a representative sample of firms, anyone can effectively choose the comparison that fits the specifics of any argument, no matter how unrepresentative might be the comparison.

Specifically, we believe that narrowing the comparison artificially to two firms, FedEx and UPS, is inconsistent with the PRA. Moreover, while the

National Association of Letter Carriers' (NALC) expert may favor this comparison, experts for the other crafts probably would not want to make a comparison across all workers in these firms who do comparable work. In particular, although delivery workers are paid high wages by these two firms, and some of their clerks (those working full time) are paid high wages, the bulk of their "inside" labor force is part time and is paid at a much lower wage rate. This makes the work structure in which delivery workers and full-time clerks operate very different from the structure that exists at the Postal Service. Consequently, not only is the sample restricted artificially to just two firms, it is not even inclusive of all the workers who do comparable work.

Many other delivery firms exist and employ workers who perform jobs that are as similar to postal work as is the delivery work performed by UPS and FedEx. UPS and FedEx delivery personnel perform their work under very different conditions and in a very different organizational structure from postal workers. Consequently, even for the delivery function, the match of postal workers with delivery workers at these selected firms is not a direct match. Yet, the union has made no attempt to survey firms across the economy that perform delivery work similar to that performed at these firms. This underscores the arbitrary nature of an unrepresentative sample that simply chooses selected private sector firms that happen to pay high wages to one group of their employees.

3. *You state that postal new hires earn about 30 percent more than they did in their previous jobs. What were these new hires doing before they came to the Postal Service? Are they all coming from the kinds of jobs you believe are comparable to postal jobs?*

The most recent New Hire Survey conducted by the Postal Service is a survey of career APWU new hires from April 1999 through March 2000, which I used as the basis of my testimony before the Goldberg interest arbitration panel in October 2001.

The data show that postal new hires come from industries and occupations across the economy. We do not claim that postal workers were specifically doing postal-type jobs in the private sector. However, we do assert that the evidence strongly supports our position that workers with the skills, qualifications, etc. to be hired into the highly sought after postal job can be found throughout the economy. Consequently, although these workers have not been doing postal-type work, the Postal Service has concluded that these individuals are competent and qualified to do postal work. Moreover, these individuals want to do postal work.



The New Hire Survey data show that these newly hired postal workers were paid considerably less in their private sector jobs than they are being paid by the Postal Service at the entry level wage.

Our evidence on the New Hire Survey supports our other evidence: all point to a substantial compensation premium for postal workers. Our multivariate statistical analyses of the CPS and the CPS/DOT compare postal workers with workers who are similar to postal workers in terms of their statistical qualifications and job traits. In the New Hire Survey, the comparison is direct. We are comparing postal workers to themselves: their current wage versus their private sector wage. This evidence should dispel any idea that postal workers have unmeasured skills, missed by our other statistical techniques, that would command high private sector wages. This conjecture has been a primary criticism of our analyses by union experts.

The New Hire Survey analysis is limited to persons who had been employed full time in the private sector within the year prior to joining the Postal Service. In this survey, the distribution of new hires by industry of their employment prior to joining the Postal Service was as follows:

Total	100%
Services	30%
Trade	25%
Nondurable Manufacturing	13%
Durable Manufacturing	11%
Finance	9%
Transportation & Utilities	8%
Construction	3%
Mining & Agriculture	1%

The distribution of new hires by occupation prior to joining the Postal Service was as follows:

Total	100%
Clerical	28%
Service	13%
Labor	12%
Craftsman	11%
Sales	10%
Management/Administration	10%
Transportation Operative	9%
Professional/Technical	4%
Nontransportation Operative	3%

These new hire data show that postal clerks are drawn from a wide array of occupations and industries across the economy.

4. *Data provided by the Postal Rate Commission shows that the Postal Service's larger Processing and Distribution Centers, particularly those located in urban areas, have lower rates of productivity than smaller postal facilities. This can probably be explained, in part, by the fact that urban postal employees' compensation does not compare as favorably to private sector compensation as other postal employees' does. If postal compensation were decreased to the degree that you advocate, do you believe there would be an impact on postal productivity? Would the Postal Service be able to recruit a competent, effective workforce?*

As an initial response, I must indicate that I have not studied productivity rates in the Postal Service. That being said, I do not accept the premise of the question that the productivity differences that exist are explained by the fact that urban postal employees' compensation does not compare as favorably to private sector compensation as does that of other postal employees.

First, and foremost, the Postal Service pays a compensation premium with respect to the private sector in every geographical area. This conclusion based on regional pay differences is also supported by data on quit rates and hiring queues. Quit rates are exceedingly low throughout the Postal Service and job registers, when they are opened, fill quickly throughout the Postal Service. This suggests that postal wages are very attractive across urban areas as well as suburban and rural areas. Consequently, differences in productivity must arise from other factors.

Second, postal facilities in the urban areas tend to be older and designed for a very different postal technology and methods of operation. For example, the main post office in Philadelphia, which is close to my office, is quite old and due to be replaced by a more modern processing facility to be located near the airport. I believe the Philadelphia post office is similar to many other large city postal facilities. Namely, they are old, multi-story buildings, located in the center of town, and generally not as efficient as newer facilities. Thus, to the extent that there are productivity differences between facilities, I believe facility design is an important reason for the difference, not the level of pay.

I do not think there would be a material impact on productivity if the postal compensation premium were reduced.

5. *You state that the high turnover rate at the Postal Service is a sign that postal employees are overpaid. An overpaid workforce, you go on, makes the Postal Service less competitive. How is low turnover a bad thing? Does the Postal Service benefit at all from a low turnover rate? If the Postal Service's turnover rate were high, would they be more or less competitive?*

I assume that the first sentence of the question should refer to a low turnover rate, not a high turnover rate. A low quit rate is not a bad thing and we do not characterize it as such, since it is a measure of the attractiveness of a job. Indeed, a relatively low turnover rate results in a lower level of costs associated with hiring, testing, and training new employees. Instead, we view the quit rate as another indicator of the existence of a substantial postal compensation premium. Based on our analysis, the only plausible explanation for quit rates that are a tiny fraction of the quit rates in the private sector is a substantial compensation premium. The extraordinarily low quit rate is thus substantiating evidence. All the data are consistent with this result.

The presence of a very large postal compensation premium leads me to conclude that a moderation of postal compensation growth could be accomplished without a significant impact on the voluntary quit rate. The cost impact of the sizeable postal compensation premium far surpasses any likely increase in costs associated with increased hiring, testing, and training.

Post-Hearing Questions for the Record  
Submitted to James L. Medoff, Ph.D.  
From Senator Tom Carper

“Preserving a Strong United States Postal Service: Workforce Issues”

February 4, 2004

1. You state that no other major firms use methods like Dr. Wachter’s to set appropriate levels of compensation for their employees. What types of methods do they use? Why is Dr. Wachter’s method inappropriate?

**Most companies use occupational wage surveys and/or compensation experts to evaluate their compensation policies. In large corporations, in-house experts from Human Resources departments collect data on competitor pay practices and provide advice to corporate managers. In other companies, outside consultants are hired to conduct surveys of pay practices in related companies and industries. The resulting analysis (benchmarking studies, corporate best practices, etc.) are then used to set pay or to guide managers in collective bargaining. As I testified, in union settings, comparability is defined, formally or informally, through collective bargaining.**

2. As you know, Dr. Wachter’s comparability model includes workers from businesses large and small, union and non-union. Is this appropriate? What kinds of workers should postal employees be compared to for the purposes of setting compensation? What sectors of the economy have employees that perform work similar to that performed by postal employees?

**Dr. Wachter’s model is flawed not only because he includes small, non-union companies that are not comparable employers, it also fails to adequately capture factors that affect pay levels in the U.S. labor market. A statistical regression model cannot possibly account for firm-specific working conditions and job characteristics. I have endorsed the approach to comparability taken by the NALC over the years. In the NALC’s view the most reasonable and relevant comparison for postal workers are generally workers employed in the Transportation, Communications and Public Utilities sectors and, more specifically, workers doing similar jobs for large, national delivery companies such as United Parcel Service and Federal Express.**

3. According to Dr. Wachter's findings, postal new hires earn about 30 percent more than they did in the previous jobs. Assuming this is true, is it an appropriate way to determine whether postal employees' pay is comparable to the private sector?

**I cannot vouch for the accuracy of his specific figure for the average increase in pay for new postal workers, but I certainly disagree with Dr. Wachter's view that it tells us anything about comparability. The fact that a worker tends to earn higher pay by switching jobs is not surprising in the least. That's precisely why most people change jobs! Dr. Wachter's strangely constricted view of the labor market – where wage levels are mainly determined by workers' human capital characteristics (education, training, etc.) – implies that workers should never get a pay raise when they switch jobs. That doesn't happen in the real world. That's because when workers change jobs, they often change occupations, employers and industries while their human capital characteristics often don't change.**

**A more realistic view of the labor market recognizes that the nature of the industry, the employment structure of the industry and firm, firm size, the level of union density as well as job characteristics affect wage levels. A worker going from a part-time, temporary job with a small company in the retail sector to a full-time career position in the USPS can expect to get a very large pay increase while someone switching from a full-time job with a large manufacturing company can expect a much smaller raise. The average increase postal workers get tells you very little about the issue of comparability.**

4. Data provided by the Postal Rate Commission shows that the Postal Service's larger Processing and Distribution Centers, particularly those located in urban areas, have lower rates of productivity than smaller postal facilities. This can probably be explained, in part, by the fact that urban postal employees' compensation does not compare as favorably to private sector compensation as other postal employees' does. If postal compensation were decreased to the degree that Dr. Wachter advocates, do you believe there would be an impact on postal productivity? Would the Postal Service be able to recruit a competent, effective workforce?

**I am not qualified to comment on the variation in productivity levels among USPS processing facilities other than to say that very specific operational factors (technology, plant layouts, the physical condition and geographical location of the facilities) are likely the cause of this variation. However, I am afraid the first part of your question confuses the issues of labor productivity and compensation levels. Compensation levels may affect unit labor costs (the cost of labor per unit of output), but they do not directly affect productivity levels. However, as the last part of the question implies, reducing pay may adversely affect productivity levels indirectly. Lower pay will inevitably diminish the quality of workers who come to work for the Postal Service. Lower quality workers will eventually translate into lower productivity.**

5. Dr. Wachter states that the **low** [high] turnover rate at the Postal Service is a sign that postal employees are overpaid. An overpaid workforce, he goes on, makes the Postal Service less competitive. How is low turnover a bad thing? Doesn't the Postal Service benefit from a low turnover rate? If the Postal Service's turnover rate were high, would they be more or less competitive?

**As I testified to the Committee, all very large firms have low turnover rates. This reflects in part the higher wages that such firms pay. But it also reflects the superior capacity of large firms to find and retain the right kind of workers. Low turnover is a good thing, not a bad thing. It is associated with higher productivity and greater worker satisfaction. Cutting pay to increase employee turnover is one of the more perverse outcomes of the Wachter model.**

Post-Hearing Questions for the Record  
Submitted to James L. Medoff, Ph.D.  
From Senator Daniel K. Akaka

“Preserving a Strong United States Postal Service: Workforce Issues”

February 4, 2004

Question 1     You advised us that any changes to the collective bargaining process should have the full backing of both postal management and its labor unions. I agree fully with that assessment. How would you bring labor and management together to find agreement?

**I support the approach taken by the leaders of the Senate Governmental Affairs Committee. It is my understanding that Senators Collins and Carper have asked the Postmaster General and the leaders of the postal unions to enter into discussions on changes in the collective bargaining process and that those discussions are proceeding. A procedure imposed from without will not work. Only a process developed jointly by the parties will have legitimacy and therefore the possibility of success.**

Question 2     You also advised Congress to stay out of the pay comparability arena. From discussions with the Postal Service and labor unions to analyses by distinguished experts such as yourself and Dr. Wachter, it appears that there is no right or wrong way of defining comparability. With this in mind, how can we expect a postal regulatory board, composed of three individuals appointed by a president, to tackle an issue that economists, human resource and compensation experts, management, and labor are unable to forge a definition?

**It is not clear to me that changing the venue of deciding how to define comparability from the collective bargaining table and interest arbitration to a regulatory board would be an improvement. It would almost certainly inject politics into the issue of comparability with unpredictable results. I have participated in the current process as a witness before an interest arbitration panel and have found it a perfectly reasonable way to resolve the issue of comparability while properly maintaining a preeminent role for the negotiating parties.**

**Post-Hearing Questions for the Record  
Submitted to the Honorable Dan Blair  
From Senator Daniel K. Akaka**

**“Preserving a Strong United States Postal Service: Workforce Issues”**

**February 24, 2004**

1. **Q.** During the Committee’s February 24, 2004 hearing, a subsequent witness questioned your response regarding the degree to which the federal government has experience in negotiating benefits with federal employee unions. Could you please clarify, for the record, your views on the extent of the federal government’s experience with labor-relations matters, specifically with respect to collective bargaining on pay for performance and on benefit issues?
  
- A.** The Office of Personnel Management (OPM) has had considerable experience over the past two decades in working with Federal agencies to develop pay-for-performance systems. Within the last year, for example, OPM worked hand-in-hand with the Department of Homeland Security (DHS) to develop a pay-for-performance system as part of the Department’s proposed new human resources management system. To date, however, such systems have been implemented primarily in non-unionized environments. Outside the U.S. Postal Service, in fact, the Federal Government overall has had very little experience in negotiating with Federal employee unions over pay and/or performance matters, and none in negotiating benefits. This is because the vast majority of non-postal white-collar and blue-collar civilian Federal employees are covered by pay and performance management systems that are established by or under title 5, U.S. Code. Those systems are excluded from collective bargaining by virtue of the definition of “conditions of employment,” which excludes matters “specifically provided for by Federal statute.” (See 5 U.S.C. 7103(a)(14)(C).)

Some agencies have established pay-for-performance systems under the demonstration project authority in 5 U.S.C. chapter 47. This authority does allow experiments with negotiating pay for performance systems architectures (e.g., composition of local pay pool review boards, source of funding for performance pools, and rating elements), subject to agreement by the affected labor organization. Over the years, Congress has enacted legislation exempting a few executive branch agencies from the pay and performance management systems established under title 5. In many of these cases, however, the employees involved are not members of collective bargaining units. (There are a few exceptions, such as the Department of Defense’s (DOD’s) non-appropriated fund employees, the Patent and Trademark Office, and the Federal Deposit Insurance Corporation, but they constitute a small portion of the non-postal Federal workforce.) In other cases, the systems established under these statutes are not pay-for-performance systems. More recently, Congress authorized both DHS and the DOD to waive the pay and performance management systems established under title 5. This legislation includes an explicit requirement for “collaboration” with affected



Federal employee unions, but does not mandate the *negotiation* of these systems. Moreover, the provisions authorizing a new National Security Personnel System for DOD specifically state (in 5 U.S.C. 9902(m)(7), as enacted by section 1101 of the National Defense Authorization for Fiscal Year 2004) that the flexibilities provided to DOD under that new law may not be construed as expanding the scope of bargaining with regard to pay and other matters that are outside the scope of bargaining under chapter 71 of title 5.

Even though the Federal Government has not had extensive experience in negotiating pay-for-performance systems with Federal employee unions, OPM's experience in helping Federal agencies develop and implement such systems in other environments leads us to conclude that (1) pay-for-performance systems should be tailored to meet the needs of the organization and its mission, and (2) affected managers and employees should be involved in the development and implementation of such systems, including appropriate measures of performance. Finally, such measures should be designed to relate specifically to the strategic goals and objectives of the organization involved.

2. Q. After enactment of the Postal Reorganization Act of 1970, former Department of Post Office employees transferred to the new Postal Service were allowed to continue their participation in the Civil Service Retirement System (CSRS). With the passage of the Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108-18), the Office of Personnel Management changed how it calculates the Postal Service's share of the pension benefits for these pre-1971 postal employees. Would you explain why the methodology was changed and to what extent the Postal Service was involved in the decision to change the methodology?
- A. The methodology was not changed. The Office of Personnel Management used the methodology specified in P.L. 93-349, which was passed in 1974, shortly after the Postal Service became independent. This law required that the Postal Service finance all of the retirement costs associated with the salary increases that it provides, regardless of the amount of pre- or post-1971 service of the employees receiving the increases. The record at the time was very clear on this point. Congress mandated the Postal Service's share of the pension benefits for pre-1971 employees, adopting the long-standing principle that the Postal Service should be responsible for all of the retirement costs associated with the salary increases that it grants to its employees.

Post-Hearing Questions for the Record  
Submitted to the Honorable Dan Blair  
From Senator Thomas Carper

“Preserving a Strong United States Postal Service: Workforce Issues”

February 24, 2004

1. Q. Pay for performance has been used at a number of federal agencies. The Postal Service is currently developing a new pay-for-performance system for its managerial and supervisory employees. A number of observers, including some who have testified before this committee, would like to see performance play a larger role in pay for the Postal Service's bargaining unit employees. Is there anything about the make-up of the workforce at the Postal Service or the kind of work they do that presents any special challenges when it comes to implementing a pay-for-performance system?  
  
A. We do not see anything about the make-up of the Postal workforce that would prevent the U.S. Postal Service from implementing appropriately designed pay-for-performance systems. Such systems generally are more successful when affected employees are involved in their development and implementation. In addition, no one system should be expected to meet the needs of all segments of the Postal workforce, and managers and employees alike should receive adequate training in the goals and objectives of such a system before it is implemented.
2. Q. What do you think would be the best use of the funding the Postal Service will deposit in escrow under the postal pension bill Senator Collins and I worked on last year? How important do you think it is that the Postal Service use at least some of that money to begin pre-funding their retiree health obligations?  
  
A. The Office of Personnel Management did not suggest the establishment of the escrow during the legislative process that resulted in the Postal Reform Act and therefore has not developed a formal position on the disposition of those funds. However, we believe that the availability of this funding provides the Postal Service with a good opportunity to begin to pre-fund its remaining massive unfunded liabilities.

We strongly support the principle of projecting future costs of benefit systems and putting aside monies to fund these liabilities as the costs accrue. This is why we so strongly oppose changing the funding of retirement benefits due to military service of postal employees back to a pay as you go system. Any proposal to reallocate money that has appropriately been reserved for pension costs would undermine this pre-funding principle.

If the Postal Service begins pre-funding post retirement health insurance costs, it should do so by establishing a fund separate from the Civil Service Retirement and Disability Fund. Sound financial policy would dictate that all funds held within a pension trust fund should be for the payment of pension benefits. A separate fund would support the informative accounting required under good financial management standards.

**Post-Hearing Questions for the Record  
Submitted to the Honorable Dan Blair  
From Senator Frank Lautenberg**

**“Preserving a Strong United States Postal Service: Workforce Issues”**

**February 24, 2004**

1. **Q.** Does the Administration disagree with any of the recommendations of the Postal Reform Commission?  
  
How does the Administration expect to sell the idea that the “total compensation” of Postal workers should be on the table for negotiation during an abbreviated collective bargaining process, but yet the compensation of Postal Service Executive needs to be increased?  
  
**A.** While the Administration may not agree with each of the 35 Commission recommendations, it does support comprehensive postal reform that is characterized by the five principles articulated by the Administration last December: implement best practices; enhance transparency; provide for greater operating flexibility; foster greater accountability; and ensure self-financing.  
  
Several of the Commission’s workforce recommendations were addressed in our report (copy attached) that was transmitted to the Committee on April 1, 2004. Currently, the Administration has not developed a position on collective bargaining over total compensation for postal employees.
2. **Q.** Based on the Office of Personnel Management’s (OPM) experience with pay-for-performance in the federal workforce, what kind of pay-for-performance does the Administration envision for the Postal Service? Will it be based on mail route, the volume of mail delivered, or even participation in work advancement programs?  
  
**A.** OPM’s experience with pay-for-performance systems suggests that not all Postal employees should be covered by the same pay-for-performance system. Such systems should be tailored to meet the needs of the organization and its mission, and affected managers and employees should be involved in the development and implementation of such systems, including appropriate measures of performance. Such measures should be designed to relate specifically to the strategic goals and objectives of the organization involved.

# NEGOTIABILITY OF BENEFITS

AN ANALYSIS OF THE BENEFIT RECOMMENDATIONS OF THE  
PRESIDENT'S COMMISSION ON THE UNITED STATES POSTAL SERVICE



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
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**NEGOTIABILITY OF BENEFITS**  
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 COMMISSION ON THE UNITED STATES POSTAL SERVICE

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## EXECUTIVE SUMMARY

The President's Commission on the United States Postal Service, and the Postal Service itself, are concerned with benefits costs. Salary and benefit costs represent the major share of Postal expenses, and thus represent significant targets for savings. Towards that end, the Commission made a number of specific recommendations relating to benefit negotiations.

### RETIREMENT

While the President's Commission recommends putting all benefit issues on the negotiating table, it is by no means clear that such a radical strategy is in the interests of the Postal Service. While it is feasible to put allocation of the full costs of Civil Service Retirement System (CSRS), Federal Employees' Retirement System (FERS), and Thrift Savings Plan (TSP) on the negotiating table without disturbing the structure of the systems, negotiating the structure of the benefits would damage the reliability and predictability of funding for these programs. Severing USPS employees and/or retirees from the current systems would eviscerate the heretofore unified structure that permits employees to work throughout Government, and to avoid difficulties as employees change between agencies.

Retirement costs are based upon the "normal cost percentage," the percentage of salary that must be contributed at the time service is performed in order to pay the full cost of retirement benefits. To fully fund the retirement system, the normal cost percentage of basic pay must be paid into the Retirement Fund at the time service is performed. It does not matter how the normal cost is allocated between the employer and employee, as long as it comes into the Retirement Fund in a timely manner. Thus, this aspect of the retirement structure is amenable to negotiation.

The retirement benefits available to employees of the Postal Service are provided under the same systems applicable to Federal employees generally. These are an integrated set of benefits that are designed to be coordinated with each other. Moreover, they also involve intra-Governmental coordination as well.

The existing Government retirement programs are stable and, with the advent of FERS, responsibly funded as retirement liabilities are accrued. If that stability of infrequent benefit changes and long-term funding of constant programs is replaced with frequently changing benefits and funding, the reasons for maintaining an integrated program are undermined or eliminated. If the Postal Service could negotiate a different set of benefits from those applicable to other agencies, and then change those benefits again every few years, the reliability and predictability of funding would be lost.

No major group has ever been severed from either CSRS or FERS and placed in a separate structure. Unless any new Postal retirement system was carefully designed with full integration incorporated (including mechanisms for dealing with service split between Postal and non-Postal employment), exceedingly challenging problems and complications would ensue. If only new employees would come under the new system (with old employees grandfathered), it would be many years before any savings would occur. If a new system froze old system benefits and provided benefits for future service under a new system, there would be numerous problematic

areas, not the least of which would be benefit funding, since the normal cost percentage assumes a continuing system.

The Postal Service's main concern is to reduce its costs. Not only is the allocation of the full cost of CSRS, FERS, and TSP benefits potentially capable of being negotiated, the tax benefits to employees of such expenditures make them a leveraged bargaining tool under a total compensation concept. However, negotiation over the CSRS/FERS benefit structures is not acceptable. If the Postal Service wants a different retirement system, whether for current employees or only new ones, then it will have to be designed and operated by the Postal Service. However, in our view, it is highly questionable whether the creation of a new Federal retirement system is either practical or desirable.

#### HEALTH BENEFITS

Since the Postal Service's contribution is higher than the Government contribution for non-Postal Service employees, Postal Service employees tend to enroll in more expensive health plans. The cost of a health plan is driven both by the benefits that are provided and the health characteristics of those covered. Therefore, any change in either the eligibility or benefits covered through negotiations would impact premiums. Provisions negotiated by the Postal Service could not be provided simultaneously with a different set of benefits for non-Postal enrollees leading to the need to divide the program.

If the Postal Service wishes to separately negotiate health benefits, we believe the logical choice would be to create a new program in which the Postal Service takes both its employees and retirees. We do not believe the Commission's intent was to suggest reducing Postal Service costs by shifting Postal retiree costs to non-Postal employees.

Four of the six fee-for-service plans currently available to all employees in the FEHB Program are sponsored by Postal organizations, and a separate Postal health benefits program could reduce the number of choices in the FEHB Program. We believe choice and competition are important components in holding down costs in the FEHB Program.

The purpose of seeking these increased negotiating flexibilities for the Postal Service is to reduce costs. Thus, our analysis only addresses lengthening the period of service needed to acquire eligibility for post-retirement health care or reducing the contribution rate for Postal retirees since these are the changes that will bring about savings.

Lengthening the period of service required for obtaining eligibility would reduce the number of retirees who would be eligible for health insurance and would thus reduce premiums. We would be concerned with the equity issue of having a smaller proportion of Postal retirees eligible for continued health benefits coverage than non-Postal retirees. Reducing the contribution rate for Postal retirees would increase premiums to these retirees driving out healthier participants who felt able to underwrite their own health care thus increasing premiums for the remaining participants.



## NEGOTIABILITY OF BENEFITS

### AN ANALYSIS OF THE BENEFIT RECOMMENDATIONS OF THE PRESIDENT'S COMMISSION ON THE UNITED STATES POSTAL SERVICE

The President's Commission on the United States Postal Service has performed extremely useful work for the Postal Service, and all of its stakeholders. Their report, *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service*, is the result of a monumental effort. While no such blueprint can be adopted without careful examination and adjustment, it represents a thoughtful review of a complex subject, and an excellent starting point to address the nation's Postal needs. Their efforts provide a framework for the Postal Service to determine the best changes to adopt to meet the challenges of doing business in the 21st century.

The Office of Personnel Management appreciates this opportunity to report on how some of the changes recommended by the Commission will impact the benefit programs administered by this office. The suggestions of the President's Commission are insightful and thought provoking. Yet, as valuable as their work is, the Commission understood that their concepts needed to be translated into concrete, workable strategies.

The President's Commission, and the Postal Service itself, are concerned with benefits costs. Salary and benefit costs represent the major share of Postal expenses, and thus represent significant targets for savings. Towards that end, the Commission made a number of specific recommendations, the most significant of which would permit negotiation relating to benefits. Among their many recommendations, several specifically deal with benefits.

The Commission recognized that these are not simple matters, as noted by the concerns stated in suggestion W-3, set out below. The bottom line is that to deviate from the current structures is an extraordinarily complex undertaking that will require circumspect analysis and careful planning to avoid major problems and unintended consequences.

Any modification of benefits will require consideration of a number of areas. Will the resulting benefit structure be an effective Human Capital Management tool? Will that structure yield the results that are desired? Is the structure reliably and fully funded, with costs funded at the time service is performed? Will the structure be administratively practical? Will the new system provide appropriate coordination with the prior structure, as well as with the continuing structures that will still apply to Federal Government employment outside of the Postal Service? Obviously, while these questions cannot be answered until there is a specific proposal, no new system will be acceptable unless the answer to each of these questions is in the affirmative.

While those outside of the Postal Service can express opinions on these matters, ultimately the Postal Service must take responsibility for the results of its negotiations. However, the questions are of Government-wide concern. This report will devote itself to an examination of the Commission's specific benefit recommendations, each of which is set out preceding discussion.

Throughout this paper, there will be many alternatives and possible changes discussed. While this will not be repeated for each item mentioned, it must be kept in mind that these changes generally cannot be effected without the enactment of authorizing legislation. Almost without exception, they cannot be adopted by administrative measures.

### **PROPOSAL W-3. COLLECTIVE BARGAINING: NEW SUBJECTS**

W-3. Collective Bargaining: New Subjects. The Postal Service's pension and post-retirement health care plans should be subject to collective bargaining – meaning that the Postal Service and its unions should have the flexibility to develop new plans that are separate and apart from existing Federal pension and retiree health care plans. However, because of concern about the uncertain impact such a change would have on the Federal system as a whole and on other Federal employees in particular, the Postal Service should work with the Department of the Treasury, the Office of Personnel Management, and any other persons or entities deemed necessary to determine the impact separate Postal Service pension and retiree health care programs would have on the existing Federal systems. As a first step:

- The Postal Service should be authorized to negotiate Federal Employee Retirement System eligibility requirements and employee contributions;
- The Postal Service should be authorized to negotiate the eligibility and retiree contribution requirements for the post-retirement health care component of the Federal Employee Health Benefit Program, specifically for future Postal Service retirees; and
- The current statutory requirement that “[n]o variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on [July 1, 1971]” should be repealed.

Recommendation W-3 is the principal element of consideration in this study. The discussion of negotiation of benefits is divided into separate sections on retirement and health benefits.

### **RETIREMENT**

Retirement benefits involve extraordinarily complex subject matter. Changing one part of an integrated system can have profound and sometimes unexpected effects upon the rest. While we believe that at least some aspects of benefits are amenable to negotiation, it must be understood that Postal benefits cannot be considered in a vacuum. The existing benefit structures are complex, coordinated systems that apply throughout Government. To achieve full negotiability might require severing the Postal Service from the existing benefit systems, an option with multiple complexities and ramifications. However, before throwing out the entire system and

starting over from scratch, there should first be a circumspect examination to ascertain whether it is possible to deal with these issues in a less radical manner.

The most important first question to be addressed is simply this: "What is broken?" Do the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) meet the human capital needs of the Postal Service? Are these systems ill suited to the needs of the Postal Service because they are ineffective as recruitment and retention tools? If that is the case, then there would be little to do but to throw everything out and start over. Or are CSRS and FERS working well to serve their intended purpose, but with costs that are considered too high? In that case the answer is to find a means of reducing the costs to the Postal Service as an employer without harming the effectiveness of the systems as useful management tools.

The answer seems to be that the problem identified by the Commission is mainly that of costs. The report of the President's Commission was not critical of CSRS and FERS as human capital tools. The only specific concerns of the Commission were related to costs. Moreover, we are unaware of any substantial concerns voiced by the Postal Service as to whether the retirement plans are performing the human capital tasks for which they are intended.

#### Benefit Negotiability – the Concept

In the short run, the Commission would make retirement "eligibility requirements and employee contributions" negotiable. While the report does not make this clear, our understanding is that this is intended to be limited to determining who should be covered by retirement, and not include the much more complex area of benefit eligibility criteria. However, in the longer term, the Commission believes that all aspects of compensation, including retirement and other benefits, should be fully subject to negotiation.

The Commission's report suggests that future negotiations will have to incorporate all aspects of compensation. No longer will there be independent negotiation of the separate parts of the compensation package. In particular, the Commission emphasizes that comparability cannot be limited to an examination of whether pay alone is competitive with the market place in which the Postal Service exists. Instead, there is to be a new emphasis on overall comparability. The new question is whether the entire package of pay and benefits, taken as a whole, is an appropriate one.

#### Negotiating the Employer-Employee Contribution Split

Since there are now far more individuals under FERS than CSRS, with the CSRS population rapidly decreasing, any changes are more significant under FERS. For purposes of simplicity, the cost figures in this section will be based upon the situation of the vast majority of Postal employees who are not in the special retirement categories (e.g., law enforcement). Nonetheless, while there are differences of scale, the same principles apply to all classes of retirement-covered employees.

The heart of this issue is the concept that costs are based upon a calculation of the "normal cost percentage." While the technical definition is more detailed and complex, in essence the "normal cost percentage" is the percentage of salary that must be contributed at the time service is performed in order to pay the full cost of retirement benefits, assuming that the contributions begin at first creditable employment, and that the system will continue. The normal cost percentages change from time to time based upon changes in the underlying economic assumptions. To fully fund the retirement system, the normal cost percentage of basic pay must be paid into the Retirement Fund at the time service is performed.

#### FERS Employer Costs

As of FY 2005, the FERS normal cost will be 12.0 percent, of which (under current law) employees will pay 0.8 percent of basic pay, and the Postal Service 11.2 percent. However, there are two other elements of Postal employer costs. The first is Social Security, costing the employer 6.2 percent of all pay up to the statutory cap (this is in addition to the separate 1.45 percent Medicare tax). The second is the Thrift Savings Plan (TSP). While the minimum is 1 percent and the maximum 5 percent of basic pay, the average is approximately 4 percent.

Thus, the actual total for the Postal Service is approximately 21.4 percent. For the purpose of this analysis, Social Security is presumed to be non-negotiable. This leaves approximately 15.2 percent of basic pay that is available with which to negotiate.

FERS is fully funded by the total of the employer and employee contributions. The proportion allocated between the parties is based upon long-standing Congressional policy. When FERS was designed, there was a consensus that the mandatory employee contributions (i.e., excluding the optional TSP contributions) should be the same as applicable to CSRS. Thus, the FERS employee contribution rate of 0.8 percent represents the CSRS rate of 7.0 percent minus the Social Security tax rate of 6.2 percent.

However, insofar as funding FERS is concerned, it does not matter how the 12 percent dynamic normal cost is allocated between the employer and employee, as long as it comes into the Retirement Fund in a timely manner. There is no reason why that 12 percent could not be divided up in some other manner. Whether it is split down the middle (6 percent and 6 percent), one party pays all, or even if there is a division that varies based upon some external variable such as organizational productivity, as long as it adds up to 12 percent, the system will be funded.

There is one complicating factor. When an individual leaves employment and takes a refund of his or her FERS retirement deductions, he or she irrevocably loses all annuity rights based upon the service covered by that refund. However, the employer contributions based upon that service remain in the Retirement Fund. This escheat is figured into the computation of the dynamic normal rate, and affects the calculation. Should there be some modification of the structure to require higher, refundable, employee contributions, the applicable Postal normal cost percentage might have to be slightly adjusted.

FERS TSP Employer Costs

TSP contributions are even more easily subject to negotiations. TSP employee contributions under both CSRS and FERS cost the employer nothing in and of themselves. It is only under FERS that there is an employer contribution that has any effect on Postal Service costs. TSP is the defined contribution tier of the overall FERS package. Once the employer contribution has been made, there are no future funding issues that the employer need worry about. Employees are entitled to receive exactly what they and their employer have put into the TSP, plus earnings under the investment choices made by the employee. Unlike modification of FERS benefits, modification of the employer contribution would not result in any future benefit funding issues.

We would defer to the Federal Retirement Thrift Investment Board on issues of feasibility and operational practicality. However, in concept, negotiation of the employer contribution rate should not adversely affect other aspects of the TSP or FERS systems. While the 1 percent minimum and 5 percent maximum agency contributions are currently set by statute, there is no reason why negotiated employer contributions could not be substituted for those requirements.

CSRS Employer Costs

These issues are somewhat more simple with regard to CSRS and CSRS Offset. For those under CSRS Offset, the Social Security taxes are non-negotiable. There is no employer contribution to TSP; thus there are no negotiable TSP employer costs. Unlike FERS, CSRS is designed with refunds, deposits, and redeposits as part of the system. Further, because it is a long-closed system and participants generally have substantial service, it is extremely unlikely that there will be a significant number of individuals forfeiting benefits under CSRS. Thus, the cost effect of the escheat of agency contributions should not affect the normal cost percentage, regardless of what proportion is paid by employees.

Additional Contribution Negotiability Factors

There are significant additional considerations that are relevant to the dynamics of negotiability of these matters under both CSRS and FERS. Unlike its competitors, the Postal Service need not consider the tax implications of these payments, since the Postal Service is not subject to income tax at the Federal, State, or local level. However, Postal employees are subject to taxes, and that would be a significant factor in negotiating total compensation under the desired new total compensation standard.

Employee FERS contributions are made from after-tax dollars. If you assume that an individual's combined marginal income tax rate is a conservative 25 percent (assuming 15 percent Federal income tax, 2.35 percent state income tax, 6.2 percent Social Security and 1.45 percent Medicare), then an individual must use 100 pre-tax dollars to satisfy a 75 after-tax dollar obligation. On the other hand, the employer contributions to FERS do not result in taxable income to the employee. Because of this tax burden, transference of any portion of the employer

share to employees would cost them substantially more than the amount saved by the Postal Service. Thus, presumably, employees would prefer to trade taxable pay for nontaxable FERS employer contributions. This would make them a potentially highly effective bargaining subject.

What would this mean in a total compensation negotiating structure? Take a somewhat simplified situation in which you assume that the employer has \$50,000 that they are willing to pay as total compensation. Further assume that the retirement contribution rate is 12 percent, meaning that the dollar retirement cost would be \$6,000. If the employee receives \$44,000, and the employer puts \$6,000 into retirement, the employee has \$44,000 to spend.

However, if the employee receives the full \$50,000, he or she would have to pay the \$6,000 out of after-tax money. Making the assumption that the employee's total marginal tax rate was 25 percent, it would take \$7,500 of pre-tax money to make the \$6,000 retirement payment, leaving the employee with only \$42,500 to spend.

The tax situation with regard to employer TSP contributions is somewhat less extreme, but still of such a nature that TSP contributions could be, from the point of view of the Postal Service, a leveraged bargaining tool. That is because while employer TSP contributions are eventually subject to income tax, taxation does not occur until the funds are withdrawn from the individual's TSP account. Thus, while to the Postal Service it costs the same dollar whether it is put into the worker's paycheck or TSP account, it is more valuable to the employee put into the TSP account. On the other hand, the increasing limit on how much individuals may choose to put into TSP from their own salaries makes this less of a factor.

Thus, under a total compensation negotiating structure, the employees are better off with tax preferred income that costs the employer no more. This makes retirement contributions a leveraged negotiating tool for the employer, who can offer higher net income to the employee at no additional employer cost. While looking solely at retirement costs independently, the Postal Service may think that reduction in its retirement costs is a worthy goal. However, taking retirement as one element of a total compensation negotiation scenario, it may actually put itself in a superior negotiating situation by considering payment of a higher proportion of retirement costs rather than trying to transfer the costs to the employees. This, of course, will be useful only if the employer is able to maintain appropriate fiscal discipline over the entire total compensation package.

It should be noted that tax savings for employees do represent reduced Federal tax receipts. However, since the Postal Service currently pays the vast majority of the retirement costs for FERS employees (11.2 percent of salary versus 0.8 percent), the potential for tax revenue loss is relatively small. Further, the principles discussed in this section are equally applicable in the private sector as well, due to the structure of the tax code. Nevertheless, the effect of such negotiations on tax revenues must be recognized.

Retirement Coverage Negotiability

The Postal Service also wishes to make retirement coverage subject to negotiation. Obviously, it costs less to employ individuals without benefits. Existing statutes permit the exclusion from retirement coverage of those individuals whose employment is temporary or intermittent. Insofar as retirement funding and benefit structures are concerned, it would not be significantly detrimental to exclude additional employees. Thus, purely from the position of a retirement system fiduciary, it would not be deleterious to permit additional exclusions from retirement coverage. However, there are public policy considerations that should be kept in mind.

A few years ago, some agencies were using consecutive temporary appoints to avoid benefit costs. The plight of Mr. James Hudson, the Park Service employee who worked at the Lincoln Memorial, and who died leaving no benefits after nearly a decade of employment under a series of temporary appointments, touched many. It resulted in reforms to the use of temporary appointments in such a manner. Any authority given to the Postal Service to exclude additional individuals should be crafted in such a manner so as to avoid long-term employment without appropriate benefits coverage. We question whether it would be acceptable public policy to permit the Postal Service to incorporate a large cadre of second-class employees.

The Postal Service might desire to require that individuals work for a period of time without retirement coverage prior to being covered. This would not result in significant complications as to the retirement systems and their funding. Further, in general, the Federal Government and its retirement systems are not subject to the requirements of ERISA. However, that law includes limitations on how long private sector workers may be employed but excluded from retirement coverage. To the extent that the Postal Service is excluded from the normal requirements applicable under the Federal Government's retirement systems, there should be consideration given to whether the Postal Service should be permitted to negotiate benefit structures that would be impermissible in the private sector.

Negotiating Benefit Structure

In order to evaluate the concept of negotiability, it is first necessary to have a basic understanding of the existing systems. Without an understanding of where you are starting from, it is not possible to adequately consider a roadmap for a new journey. While the following descriptions of the systems attempt to highlight their most essential aspects, it must be understood that both CSRS and FERS are extraordinarily complicated. Thus, while these are the most generally applicable aspects of the systems, there are numerous circumstances where there are exceptions to, or modifications of, the generally applicable provisions, and that these descriptions may be regarded only as overviews. Moreover, there are many provisions applicable under certain specified circumstances that are beyond the scope of such an overview.

CSRS Overview

CSRS was established in 1920, and, until the establishment of FERS in 1986, was the principal retirement system for Government employees. Postal employees were covered by CSRS from its inception. Indeed, while the original retirement age was 70 for most employees, the Civil Service Retirement Act of 1920, Public Law 66-215, made special provision for retirement of letter carriers and post-office clerks at age 65, and for railway Postal clerks at age 62.

While there have been numerous major and minor modifications over the years both before and after 1956, the current basic structure dates to the Civil Service Retirement Act Amendments of 1956, Public Law 84-854. CSRS is a nearly pure defined benefit system, with benefits based upon the individual's age and service history rather than the retirement contributions to the individual's credit. The amounts of retirement deductions from salary and agency contributions have essentially no effect upon benefit computations (with the minor exceptions relating to adjustments based on certain unpaid retirement deductions and refunded deductions). While there is substantial correlation between contributions and benefit amounts, there is not a cause and effect relationship between the amount of retirement deductions to an individual's credit and their annuity rate. That is to say, while higher income individuals tend to have higher contributions and annuities, under certain circumstances it is possible for an individual with very low contributions to have a high annuity. CSRS is substantially older than Social Security, and employees covered by CSRS are generally excluded from Social Security coverage and benefits based upon their CSRS service, with a relatively recent exception for individuals who return to employment after a break in service of over 365 days (for whom benefit coordination provisions have been enacted).

CSRS is a closed system. Primarily, only individuals with at least 5 years of Federal service prior to 1987 are eligible to be covered under CSRS.

*CSRS Retirement Eligibility*

The main aspects of eligibility for retirement are the employee's age and years of service. For an employee to retire voluntarily on an immediate annuity with no other eligibility requirements, an individual must be age 55 with 30 years of service, age 60 with 20 years of service, or age 62 with 5 years of service.

Provisions are made for earlier retirement if an individual is involuntarily separated on a not-for-cause basis, or voluntarily separates under a Voluntary Early Retirement Authority (VERA, approved under statutorily specified circumstances when agencies are undergoing reorganizations or downsizing), when an immediate annuity is available at age 50 with 20 years of service, or at any age with 25 years of service.

Disability retirement is available at any age when an individual becomes disabled while employed under CSRS. Five years of service are required.



When an individual separates with at least 5 years of service, but does not qualify for an immediate annuity, a deferred annuity is payable beginning at age 62. Finally, there are special groups of employees, such as law enforcement officers (LEOs) and firefighters (FFs), who are permitted to voluntarily retire on an immediate annuity at age 50 with 20 years of service, and who (unlike other employees) are subject to mandatory retirement (generally at age 57).

#### *CSRS Creditable Service*

Under the older CSRS, generally speaking, all periods as a Federal Government employee are potentially available to be used for retirement purposes. However, service can only be creditable under a single retirement system. In addition, service credit is generally available for military service and certain volunteer service (e.g., Peace Corps and VISTA). Service credit deposit payments are generally required, but these represent only a small fraction of the value added by the service.

#### *CSRS Annuity Computation*

Benefit computation is primarily based upon the individual's "high-three" average salary multiplied by a percentage figure derived from the individual's service history. For most employees, the percentage equals 1.5 percent for each of the first 5 years of service, 1.75 percent for each of the next 5 years of service, and 2.0 percent for each year of service in excess of 10 years. Unless an individual is retiring under disability or one of the special retirement classes (i.e., LEO or FF), the annuity is reduced by 2 percent for each year the individual is below age 55 at the time of retirement. For an employee retiring on disability, their service is extended to age 60, with a maximum of 40 percent based upon the extended service. For LEOs and FFs, the calculation is 2.5 percent for each of the first 20 years of service, and 2.0 percent for each year of service in excess of 20.

#### *CSRS Survivor Benefits*

If an individual dies as an employee after at least 18 months of service, survivor annuity benefits are provided to the individual's surviving spouse and/or minor or disabled children. The spousal annuity is 55 percent of what the employee's disability benefit would be, while children's benefits are fixed dollar amounts. Upon retirement, an individual's annuity is reduced (by 2.5 percent of the first \$3,600 per annum, and by 10 percent of the remaining annuity) to provide a potential survivor benefit of 55 percent of the individual's unreduced annuity, unless the spouse waives the right in a notarized document. Post-retirement children's survivor benefits are provided without annuity reductions. Provisions are also available for employee and annuitant survivor benefits to former spouses under specified circumstances.

#### *CSRS Post-retirement Annuity Adjustment*

CSRS annuity benefits are adjusted annually, based upon the percentage change in cost-of-living, as measured by the Consumer Price Index (all items—United States city average) (CPI). COLAs

begin immediately after retirement, regardless of the type of retirement, with proration of the initial COLA.

#### *CSRS TSP Eligibility*

Employees are permitted to make contributions to the TSP. However, there are no employer contributions for CSRS covered employees.

#### *CSRS Funding*

For most non-Postal employees, the law provides that 7 percent of basic pay will be deducted from the employee's pay, and the employing agency will contribute a matching amount. However, since the CSRS normal cost percentage is substantially higher (25.0 percent, effective in FY 05), CSRS is not fully funded. While statutory provisions do require certain payments from the Treasury, there are no provisions for fully funding the unfunded liability.

Prior to enactment of Public Law 108-18, the Postal Service paid its employer contributions at the same rate as other agencies. However, the Congress had enacted a number of pieces of legislation that required additional contributions to the Retirement Fund at specified rates. When OPM discovered in 2002 that statutorily-mandated payments to the Retirement Fund from the Postal Service would eventually over-fund Postal CSRS obligations, OPM worked within the Administration to promptly prepare and submit legislation to ensure that the Postal Service paid only its fair share.

Under the Postal CSRS Funding Reform Act of 2003, the Postal Service is responsible for the entire cost of the CSRS retirement benefits payable to Postal employees. This includes all of the costs attributable to service since the Postal Service became independent in 1971, and includes liabilities due to military service. This approach is the same as is used for funding of FERS.

The Postal Service was credited with all of the contributions actually made by the Postal Service, reduced by all of benefits actually paid out. The legislation essentially implements a new funding system for the Postal Service, starting from scratch in 1971. The net result of the OPM methodology that was adopted in the recent legislation was that Postal Service costs were reduced by \$78 billion.

The OPM methodology is a complete replacement of a system of funding Postal pensions that was developed in a piecemeal fashion and never adequately conformed to the good pension funding principles used in the private sector. The new methodology is based on the dynamic funding established by Congress and provides for all costs of the system (including costs arising from military service) to be funded over the careers of the employees. The beneficial investment earnings that under the old funding system accrued to the Treasury are now credited to the Postal Service.

While no other entity has been required to fully fund all of its unfunded liability, that is, its prior costs, there are other entities that have been required to pay the full costs of CSRS benefits on a prospective basis. Since the cost of service credit for military service is a portion of those costs, these other entities have been required to pay the cost of military service credit under CSRS.

When the Metropolitan Washington Airports Authority (MWAA) was created by Public Law 99-500 in 1987, former Department of Transportation employees were permitted to retain their Federal retirement benefits. At that time, MWAA was required to prepay the difference between employer and employee contributions, and the actual cost of CSRS benefits, which included credit for military service.

In 1996, Public Law 104-134 spun off the United States Enrichment Corporation (USEC) from the Department of Energy as a private entity, and former Department of Energy employees were permitted to retain their Federal retirement benefits. For its CSRS employees, USEC, like the Postal Service, is required to pay the dynamic normal cost less employee deductions, which includes the cost of military service credit. Unlike the Postal Service, USEC is required to pay an additional administrative fee of up to 2 percent of its other payments.

#### *CSRS Normal Cost Percentages*

The Board of Actuaries of the Civil Service Retirement System met on May 8, 2003, and recommended new economic assumptions for CSRS and FERS. These new assumptions were first used for the actuarial valuations that were done in FY 03 for the actuarial liability as of September 30, 2002 and the actuarial liability projected to September 30, 2003. The agency contributions based on these new normal costs will go into effect in FY 05. The new economic assumptions are: a 6.25 percent interest rate, 4.0 percent annual general salary increases, and a 3.25 percent rate of inflation. Previously, the assumptions were for a 6.75 percent interest rate, 4.25 percent annual general salary increases, and a 3.75 percent rate of inflation.

The changes in the assumptions resulted in increases in the applicable normal cost percentages. The following are the CSRS normal cost percentages, employee contribution rates, and Postal Service contribution rates applicable to the classes of individuals employed by the Postal Service:

## CSRS NORMAL COST PERCENTAGES

	Prior (FY 03-04) Total	Total	New (FY 05) Employee Contribution	USPS Contrib.
Regular	24.4%	25.0%	7.0%	18.0%
Offset	18.8%	19.5%	0.8%*	18.7%
Law Enforcement	38.9%	40.3%	7.5%	32.8%
Law Enforcement Offset	34.4%	35.7%	1.3%*	34.4%

\* Up to the Social Security maximum contribution base. Any basic pay above that amount is subject to retirement deductions at the normal CSRS rates, 7.0 percent for most employees, and 7.5 percent for LEOs.

FERS Overview

The Federal Employees' Retirement System (FERS) was established by Public Law 99-335, the Federal Employees' Retirement Act of 1986. This followed enactment of Public Law 98-21, the Social Security Act Amendments of 1983, that established a policy that new Federal employees would be covered by Social Security.

FERS was designed as a fully funded, more modern, more portable retirement system. It is a three-tier plan, composed of Social Security benefits, a defined benefit tier (FERS), and a defined contribution tier (TSP). It was intended that the combination of benefits would be roughly equal to the benefits under CSRS.

*FERS Retirement Eligibility*

As with CSRS, under FERS the main aspects of eligibility for retirement are the employee's age and years of service. For an employee to retire voluntarily on an unreduced immediate annuity with no other eligibility requirements, an individual must be MRA (Minimum Retirement Age, from 55 to 57, depending upon year of birth) with 30 years of service (MRA+30), age 60 with 20 years of service, or age 62 with 5 years of service. An individual may retire voluntarily on a reduced (5 percent for each year under age 62 at retirement) immediate annuity at MRA with 10 years of service.

Provisions are made for earlier retirement if an individual is involuntarily separated on a not-for-cause basis, or voluntarily separates under a VERA, with an immediate annuity available at age 50 with 20 years of service, or at any age with 25 years of service.

Disability retirement is available at any age when an individual becomes disabled while employed under FERS. Eighteen months of service are required.

When an individual separates with at least 5 years of service, but does not qualify for an immediate annuity, a deferred annuity is payable beginning at age 62. When an individual separates with at least 10 years of service, but does not qualify for an immediate annuity, the deferred annuity is payable beginning at the time elected by the employee between MRA and age 62, but is reduced by 5 percent for each year the individual is under age 62 when the annuity commences. When an individual separates with at least 30 years of service, but does not qualify for an immediate annuity, an unreduced deferred annuity is payable at MRA.

Finally, there are special groups of employees, such as law enforcement officers (LEOs) and firefighters (FFs), who are permitted to voluntarily retire on an immediate annuity at age 50 with 20 years of service or at any age with 25 years of service. Unlike other employees, these individuals are subject to mandatory retirement (generally at age 57).

#### *FERS Creditable Service*

The basic FERS service credit concept is that, after an initial transition period ending December 31, 1988, service credit for civilian employment would be available only for service that was covered under FERS or CSRS (which are funded by the same trust fund) at the time it was performed. Service credit may also be transferred to or from the Foreign Service's and Federal Reserve's retirement systems. In addition, subject to a small deposit requirement, service credit is generally available for military service and certain volunteer service (e.g., Peace Corps and VISTA).

#### *FERS Annuity Computation*

Benefit computation is primarily based upon the individual's "high-three" average salary multiplied by a percentage figure derived from the individual's service history. For most employees, the percentage equals 1.0 percent for each year of service. The percentage factor is increased to 1.1 percent per year when an individual retires after reaching age 62 with at least 20 years of service. There is no reduction for early retirement.

For law enforcement officers and firefighters, the calculation is 1.7 percent for each of the first 20 years of service, and 1.0 percent for each year of service in excess of 20.

Under specified circumstances, there is a Special Retirement Supplement (SRS) which is paid as an annuity until age 62. This supplement approximates the Social Security benefit earned while the individual was employed by the Federal Government. An individual may be eligible for the SRS if he or she retires at MRA with 30 years of service; at age 60 with 20 years of service; or under the special LEO or FF retirement provisions. An individual with involuntary or VERA retirement may also receive the SRS, but only after reaching MRA. If the individual has

earnings from wages or self-employment that exceed the Social Security annual exempt amount, the SRS will be reduced or stopped.

For an employee retiring on disability who is not eligible for optional retirement, for the first year the annuity is 60 percent of the high-three average salary minus 100 percent of any Social Security disability benefit. After the first year, the benefit is 40 percent of the high-three average salary minus 60 percent of any Social Security disability benefit. At age 62, the disability annuity is recomputed, with the service extended to age 62, and the original high-three average salary increased by the COLAs that have been applied since retirement. If an individual meets the requirements for an immediate annuity (other than an MRA+10 annuity) at retirement on disability, the annuity is the earned benefit under the regular computation rules.

#### *FERS Survivor Benefits*

If an individual dies as an employee after at least 18 months of service, a lump-sum benefit is provided to the individual's surviving spouse, and survivor annuity benefits are provided to the individual's minor or disabled children. If an individual dies as an employee after at least 10 years of service, a survivor annuity is also provided to the individual's surviving spouse. The spousal annuity is 50 percent of what the employee's disability benefit would be, plus a special supplemental annuity payable until age 60 (if the spouse will not be eligible for Social Security survivor benefits until age 60) while children's benefits are fixed dollar amounts. Upon retirement, an individual's annuity is reduced (by 10 percent of the annuity) to provide a potential survivor benefit of 50 percent of the individual's unreduced annuity, unless the spouse waives the right in a notarized document. Post-retirement children's survivor benefits are provided without annuity reductions. Provisions are also available for survivor benefits to former spouses under specified circumstances both as an employee and annuitant.

#### *FERS Post-retirement Annuity Adjustment*

Except for survivor annuities, disability annuities, and special retirement annuities (e.g., LEO and FF), COLAs do not begin until the annuitant reaches age 62. FERS annuity benefits are adjusted annually, based upon the percentage change in the Consumer Price Index (all items—United States city average). If the CPI increase is 2 percent or less, the COLA increase is the full amount of the CPI increase. If the CPI increase is between 2 percent and 3 percent, the COLA increase is 2 percent. If the CPI increase is 3 percent or more, the COLA increase is the amount of the CPI increase minus 1 percent.

#### *FERS Thrift Savings Plan Eligibility*

The employer TSP contribution under FERS is 1 percent of basic pay, plus a dollar-for-dollar match of the first 3 percent of basic pay contributed by the employee, plus a fifty-cents-per-dollar match of the next 2 percent of basic pay contributed by the employee. The maximum employer contribution is 5 percent of basic pay.

*FERS Funding*

FERS was designed as a fully funded staff retirement system, with the full dynamic normal cost of service credit paid for by employer and employee contributions.

*FERS Normal Cost Percentages*

The following are the FERS normal cost percentages, employee contribution rates, and Postal Service contribution rates applicable to the classes of individuals employed by the Postal Service:

## FERS NORMAL COST PERCENTAGES

	Prior (FY 03-04) Total	Total	New (FY 05) Employee Contribution	USPS Contrib.
Regular	11.5%	12.0%	0.8%	11.2%
Law Enforcement	24.0%	25.1%	1.3%	23.8%

Can CSRS and FERS Benefits be Negotiated?

As noted above, it is possible to put 100 percent of the costs of these programs on the table by negotiating the source of Retirement Fund payments. However, the issue of the Postal Service having authority to negotiate a different benefit structure is one of much higher complexity. After careful consideration of the issue, we have concluded that the negotiation of alternative provisions for either FERS or CSRS would negate any value in having a system inclusive of both Postal and non-Postal employees with different benefits. The impact of full benefit negotiation for Postal Service employees is discussed more fully below.

The foregoing rather detailed description of the benefit structure is required in order to grasp why it is not practical to negotiate these benefits for Postal employees. The retirement benefits available to employees of the Postal Service are provided under the same systems applicable to Federal employees generally. These are an integrated set of benefits that are designed to be coordinated with each other. Moreover, they also involve intra-Governmental coordination as well. They are formulated as a unified structure that permits employees to work throughout Government, and to avoid difficulties as employees change between agencies.

As stated above the primary benefits of the retirement systems as they exist today are unified Government retirement programs that are stable and, with the advent of FERS, responsibly funded as retirement liabilities are accrued. Once that stability of infrequent benefit changes and long-term funding of constant programs is replaced with frequently changing benefits and funding, the reasons for maintaining an integrated program are undermined or eliminated.

A defined contribution plan is easily modified from contract to contract. The money goes into prescribed investments, and what is there when the employee retires is his or her benefit. However, CSRS and FERS are defined benefit structures. The ability of the Government to provide the promised benefits when due is based upon there being sufficient investments accumulated to provide the promised package. This, in turn, is dependent upon there being a consistent long-term structure in place. If there can be substantial changes in the plan structure every few years, then reliable and predictable funding cannot be assured.

If the Postal Service could negotiate a different set of benefits from those applicable to other agencies, and then change those benefits again every few years, the reliability and predictability of funding would be lost and it would be impossible to plan accurately even for funding, because the needs would change every few years. The normal cost percentages applicable to most of Government would not be correct for the Postal Service, and separate Postal normal cost percentages would have to be computed and used. Based upon benefit changes, this could vary greatly when benefit changes occurred.

The frequently negotiated benefit changes would create or make major changes in the Postal Services' unfunded liability. There could be one negotiating cycle when the economy is tight, and benefit contractions could result in over funding based on prior payments. That could be followed by an expansion of benefits in a job sellers' market a few years later that would create a very substantial unfunded liability. There is a very real risk of creating a funding roller coaster.

Another concern would be the complexity of accurately ascertaining actual costs, and what payments would be required to support the ever changing and unique Postal benefit structure. There are currently divergent views on benefit costing issues that, while substantial in their dollar amount, are much less conceptually complex in comparison to the types of funding cost calculation issues that could arise from unlimited negotiations on any and all aspects of the underlying structure. Recurrent benefit renegotiations could easily lead to continuous confusion as to costs and payments. We believe that the public would be very poorly served by permitting such a situation to exist.

The administrative burdens that might result are also capable of being oppressive, and could lead to much confusion in benefit administration. Currently, there is a single system with centralized rules applicable Government-wide. There are no problems when an individual transfers between agencies. There is a uniform structure that permits individuals to make such career changes seamlessly. When someone is employed in a number of agencies over the years, there are generally no problems with regard to what benefits the individual is entitled, and at what time. A separate Postal benefit structure could make that type of interchangeability problematic.

#### Postal Retirement Alternatives

While the President's Commission recommends putting all benefit issues on the negotiating table, it is by no means clear that such a radical strategy is in the interests of the Postal Service. It is feasible to put all of the costs of retirement on the negotiating table without disturbing the



structure of the systems. In a total compensation environment, it is possible to negotiate on the total value of benefits, with appropriate adjustment as required between the value of pay and benefits.

We are unaware of any concern from either the Commission or the Postal Service as to the basic benefit structure's effectiveness as a human capital tool. It is our belief that the benefits do what they are supposed to do. While there are no empirical studies of the subject, anecdotal evidence strongly indicates that they attract and help retain the types of employees the Postal Service needs.

While we are unaware of any major perceived flaws in the existing systems, it may be that the Postal Service reaches a conclusion that, for whatever reason, it considers it poor management to continue to use the existing benefit structure on a permanent basis. Any new system would be the fiscal responsibility of the Postal Service, which would have to be accountable for all costs of the new structure, whether anticipated or not. And how then, could the Postal Service be extricated from the present benefit structure?

No major group has ever been severed from either CSRS or FERS and placed in a separate structure. Unless any new Postal retirement system was carefully designed with full integration incorporated (including mechanisms for dealing with service split between Postal and non-Postal employment), exceedingly challenging problems and complications would ensue. If only new employees would come under the new system (with old employees grandfathered), it would be many years before any savings would occur. If a new system froze old system benefits and provided benefits for future service under a new system, there would be numerous problematic areas, not the least of which would be benefit funding, since the normal cost percentage assumes a continuing system. A transfer of Postal Service assets and obligations of the Retirement Fund to the Postal Service would be a radical action and could result in budget outlays. And yet that is the range of choices.

#### *A New System with Grandfathered CSRS/FERS Employees*

One option would be to provide that only those currently employed by the Postal Service would be eligible to continue their retirement coverage. New employees would be covered by whatever benefit structure the Postal Service would negotiate. Those current CSRS and FERS employees would continue under those systems, and would eventually receive the benefits to which they are entitled. Since they would continue for their full careers, the benefit funding mechanism would cover their costs (even if contribution apportionment was negotiated).

This option would give the Postal Service the least opportunity to bring about changes through negotiation due to the long time needed to bring a substantial number of employees under the new system. The Postal Service would be much more isolated from other Government entities. Because they would not want to lose their benefit coverage, other Federal employees might not want to transfer to the Postal Service. Pressure might be brought to bear to provide for

portability of benefits between Postal and other Federal Service, but that would bring on additional complexities and funding issues.

Another consideration is that for many years there would be no one in the negotiating process who would, at least in the short run, stand to actually gain from advancing the interests of non-CSRS/non-FERS Postal workers. All actual members of the employee organizations would be covered under CSRS or FERS, and would not be harmed by negotiation of very low benefits for future employees. The Postal Service would understand this dynamic, and would want to reduce costs. The temptation would be to create a cut-rate plan for future employees that would be attractive for its potential savings, but which could lead to long-term problems.

In this regard, it might be noted that there have been attempts for decades to limit compensation costs for Department of Defense Non-appropriated Fund Instrumentality (NAFI) employees. These individuals are excluded from the title 5 definition of employee, and are thus not subject to title 5 provisions. That has not prevented there being numerous questions and issues over the years, with several laws enacted to attempt to deal with various aspects of the problem. While some issues have been resolved, many have not, with the result a perennial crop of problems. This is not a situation that anyone would want repeated.

*A New System Inclusive of Former CSRS/FERS Employees*

If the Postal Service wanted to totally discontinue coverage of its employees under CSRS and FERS, the situation then becomes even more difficult. There would certainly be protests from workers who had worked for years or decades under CSRS or FERS, and who would believe that this would be inequitable. However, notwithstanding the significance of those concerns, they are minor in comparison to the substantive transition issues.

When you terminate participation in a defined contribution system, it is a relatively simple matter. Whatever is in the account is to the person's credit, and can grow with time until retirement. When you terminate a defined benefit structure, you create numerous questions. Mostly, they fall into a few areas. What will the participants get based upon their prior service? How will the prior benefits be administered? How will the funding of those benefits be accomplished? How will the former system interrelate with the new system? The first two questions are discussed below. However, other questions can only be usefully considered in the context of a specific proposal.

What would the participants get based upon their prior service? This is a key question. Normal cost percentages are based upon a continuing, permanent system. The current CSRS and FERS benefit and funding structures are not designed for premature termination. Most importantly, they are not designed and financed to provide indexed deferred benefits. If you simply lock in individuals at their current earned percentages and average salary, the real value of the benefit will diminish over time. To provide equity for these employees, either the existing systems would have to be modified to provide for indexing of benefits, or the new Postal retirement plan would have to incorporate some type of supplemental benefit.

Disability and survivor benefits based upon the frozen service would be other areas requiring careful planning and coordination. Presumably, the new Postal plan would have to provide for individuals who became disabled subsequent to initiation of the new plan. Since survivor annuity benefits are not generally available to survivors of individuals who die between the termination of covered service and entitlement to the deferred annuity, some sort of provision would have to be made, either as part of the new plan, or by modification of CSRS and FERS.

But if you index the deferred benefits, either to inflation or to Postal salary rates, or provide other benefit modifications, then those costs must be calculated and provided for. If the coordination benefits are included in the Postal plan, it would be up to the Postal Service to design and determine how to pay for these benefits. However, if the coordination benefits are provided by modifications to CSRS and FERS and administered by OPM, presumably the Postal Service would be required to pay any additional costs.

How would the benefit structure be administered? A "frozen" CSRS/FERS system would certainly be complex. There would be additional expenses, and new administrative functions and procedures would have to be created.

One possibility would be to turn the current value of the Postal share of the Retirement Fund over to the Postal Service. The Postal Service would then have the resources and the responsibility to pay benefits based upon prior Postal Service, regardless of whether benefits would be payable under the former or new rules. Depending upon budget accounting conventions then applicable, this could have a large effect upon budgetary calculations. If the Postal Service wants to take complete control of its benefits structure, this option would have that effect. That is the only option that would permit the Postal Service to take over total responsibility to perform the actions necessary to achieve a goal of complete benefits independence.

As of September 30, 2002, about 32 percent of Postal employees were covered by CSRS, and their average age was 52.5 years with 27.1 years of service. The proportion of employees in CSRS is projected to decline to 18 percent over the next five years (by September 30, 2007). However about 92 percent of Postal annuitants were covered by CSRS as of September 30, 2002, and about 93 percent of the total benefits that will be paid out over the next 10 years will be under CSRS. It probably would not be feasible to reduce the benefits for current CSRS annuitants, and it would be difficult to modify the benefit provisions for CSRS employees because they are nearing the ends of their careers and would not have time to make the necessary adjustments to their retirement planning. We believe it would make the most sense to continue with the benefit provisions and the funding of CSRS as they are under current law.

We do not believe it is desirable to provide retirement benefits for Postal employees under a new, separate system. However, if it is thought necessary to make changes in existing retirement programs, these changes should be limited to FERS. The FERS system has been fully funded from its inception, and there has been separate accounting for the assets and liabilities attributable to the Postal employees. In general, employees have been in FERS since first hire

(except employees who have elected FERS with 5 years of CSRS service), and there is not the problem of allocating a portion of the retirement benefits of Postal employees to the Treasury because of pre-1971 service, that is service before the Postal Service became independent in 1971. One distinct advantage of separating Postal employees from FERS under their own Postal-funded system is that it would eliminate the temptation to use the Civil Service Retirement and Disability Fund to provide additional funding for Postal operations as a disguised subsidy.

#### Does a Separate Postal Retirement System Make Sense?

At this time, there is a unified retirement structure that effectively serves the human capital needs of the vast majority of the Federal Government, including the Postal Service. Creation of a new Postal retirement system would be an extremely complicated undertaking with neither a clearly demonstrated need, nor even an articulated set of human capital goals to be achieved. It is certain that such an undertaking would be arduous, and would create numerous contentious issues and problems. Moreover, the Postal Service's demonstrated financial concerns can be responded to by negotiation over allocation of retirement costs.

Even if desired by the Postal Service, would the Federal Government, the Postal Service, and the public all actually benefit from the establishment of another, major retirement system? This is a public policy question that must ultimately be decided by the Congress. However, in our view, there is little evidence in support of an affirmative answer.

#### Retirement Summary

The Postal Service's main concern is to reduce its costs. Not only is the full cost of CSRS, FERS, and TSP benefits potentially capable of being negotiated, the tax benefits to employees of such expenditures make them a leveraged bargaining tool under a total compensation concept. However, negotiation over the CSRS/FERS benefit structures is not practical. If the Postal Service wants a different retirement system, whether for current employees or only new ones, then it will have to design and operate it. In our view, it is highly questionable whether the creation of a new Federal retirement system is either practical or desirable.

### **HEALTH BENEFITS**

#### Current Status

Since the Postal Service's contribution is higher than the Government contribution for non-Postal Service employees, Postal Service employees tend to enroll in more expensive health plans. The typical premium for plans that Postal members join is about 1 percent higher than the typical non-Postal member plan premium.

The Postal Service has a higher concentration of Self and Family contracts when compared to the rest of the FEHB Program population (72 percent of total contracts for Postal Service v. 60 percent of total contracts for non-Postal).

The average premium for Postal Service employees is 9.4 percent higher than for non-Postal employees.

The FEHB Program includes 12 employee organization plans of which NALC, APWU, Mail Handlers, Rural Letter Carriers, and Postmasters are sponsored by Postal unions.

#### Impact of Separate Postal FEHB Eligibility or Benefit Negotiations

##### *Cost Impact*

The cost of a health plan is driven both by the benefits that are provided and the health characteristics of those covered. Therefore, any change in either the eligibility or benefits covered through negotiations would impact premiums. Provisions negotiated by the Postal Service could not be provided simultaneously with a different set of benefits for non-Postal enrollees leading to the need to divide the program.

If the Postal Service were to withdraw from the FEHB Program and create a health insurance program exclusively for Postal employees but not Postal retirees, assuming no change in benefits, the average premium for both Self Only and Self and Family enrollments would be about five percent less than in the FEHB Program. This is because the only enrollments for active employees would be in the new Postal risk pool. The average premium for the remaining FEHB Program which would include Postal retirees in the risk pool would increase about 1 percent and the Postal pro-rata premium share would also increase by this amount.

If the Postal Service were to withdraw both its active employees and retirees, average premiums for both groups would be nearly the same. We believe the logical choice would be to create a new program in which the Postal Service takes both its employees and retirees. We do not believe the Commission's intent was to suggest reducing Postal Service costs by shifting Postal retiree costs to non-Postal employees.

##### *Impact on Choice*

Since many of the fee for service plans currently offered in the FEHB Program are sponsored by the Postal Service, the number of choices in the FEHB Program would decrease. We believe choice and competition are important components in holding down costs in the FEHB Program.

##### *Options Available Within the Current Program*

Currently the Postal Service does negotiate the contribution rate for Postal employees. Today that stands at 85 percent of the weighted average compared to 72 percent for non-Postal

employees. Although this has resulted in Postal employees electing more expensive plans, we do not believe it has adversely affected premiums of individual plans. As long as negotiations did not reduce the level of contributions significantly below that of non-Postal employees, we believe the FEHB Program could remain intact.

A significantly reduced contribution could result in adverse selection driving out healthier enrollees and increasing costs for other participants.

#### Retiree Health Care in the FEHB Program

##### *Eligibility for Coverage as a Retiree*

Retirees must have been covered for the last 5 years of civilian service before retirement or for the full period(s) of service since the first opportunity to enroll (if less than 5 years) in order to carry health insurance into retirement.

All retirees are eligible for the same plans as employees.

##### *Premiums*

Postal Service retirees realize an increase in premiums upon retirement because the employer contribution is based on the amount in law for non-Postal employees and retirees instead of the higher contribution rate negotiated for Postal employees.

##### *Financing*

Currently, the Postal Service makes health premium contributions for retirees from the Postal Service on a pro rata basis. The prorated share of the premium payment is the civilian service after July 1971 divided by the total service, which includes military service. However, eligibility for post-retirement health benefits coverage is based solely upon health benefits coverage during an employee's last five years of civilian employment.

As the early retirees from the Postal Service are replaced by more recent retirees, the share of the Postal Service contribution is increasing rapidly, as referenced in Table 2, Appendix I.

For individuals who retired from the Postal Service in 1971, the Postal Service premium liability is nearly zero, but the premium liability is nearly 100 percent for individuals who retire from the Postal Service today. This is because the Postal Service's liability is based upon the proportion of the employees' service performed with the Postal Service since its establishment in 1971.

##### *Impact of Negotiating Retiree Eligibility or Contribution Levels*

Since the purpose of seeking these increased flexibilities for the Postal Service is to reduce costs, our analysis only addresses lengthening the period of service needed to acquire eligibility for

post-retirement health care or reducing the contribution rate for Postal retirees since these are the changes that will bring about savings.

Lengthening the period of service required for obtaining eligibility would reduce the number of retirees who would be eligible for health insurance and would thus reduce costs. We would be concerned with the equity issue of having a smaller proportion of Postal retirees than non-Postal retirees but have no financial harm basis on which to object.

Reducing the contribution rate for Postal retirees would increase premiums to these retirees, driving out from the FEHB Program healthier participants who felt able to underwrite their own health care, thus increasing premiums for the remaining participants.

#### Post Retirement Health Care Financing Issues

Currently, Postal retiree health benefits are funded on a pay-as-you-go basis. Any proposal to pre-fund health benefits must include funding of the accruing cost for active employees plus funding of the liability accrued to date. Based upon the last valuation performed by OPM Actuaries in compliance with Federal Financial Accounting Standards, the accruing cost of post-retirement health benefits on a per participant basis was \$4,130 in FY 2003. The accrued liability is shown in the table below.

FEHB Accrued Post-Retirement Health Benefit Liability September 30, 2003 (dollars in billions)		
	Current Allocation	
Postal Share		
Actives	\$ 32.1	
Retirees	\$ 22.3	
Total	\$ 54.4	
Federal Share	\$185.1	
Total Liability	\$239.5	

Were the Postal Service to leave the FEHB Program, the breakdown of the total liability between Postal and non-Postal would depend upon whether any Postal actives or annuitants remained in the FEHB. Clearly, if the Postal Service were to stand alone, it could change benefits or change assumptions to arrive at different estimates of the accrued liability.

#### **LIFE INSURANCE**

The Federal Employees' Group Life Insurance (FEGLI) Basic benefit is designed to provide salary-based insurance coverage at a level cost per dollar of coverage over the career of an employee. By law, the Federal Government pays 1/3 of the Basic premium for non-Postal employees and retirees. The Postal Service has negotiated that it pays 100% of the Basic

premium for its employees. The Postal Service pays 1/3 of the premium for its retirees. All other FEGLI insurance options are paid 100% by the enrollee.

There is no opportunity for negotiated savings in the Postal share in any Option except Basic FEGLI. A decrease in the Postal share for Basic would have little or no effect on overall premiums. An extreme reduction in the Postal share (e.g. to 0%) could lead to a disproportionate loss of enrollment of healthy employees and cause an increase in premiums.

A proposal to withdraw the Postal Service from the FEGLI program would have minimal effect on FEGLI premium rates. However, there could be a budget cost associated with transferring to the Postal Service a share of FEGLI assets reserved for funding Basic FEGLI benefits for its withdrawing Postal employees and/or retirees from the FEGLI program.

#### **PROPOSAL W-7. WORKERS' COMPENSATION CLAIMS**

W-7. Workers' Compensation Claims. The Postal Service should be provided relief from the requirements of the Federal Employees' Compensation Act as follows:

\* \* \* \* \*

- The Postal Service should be allowed to transition individuals receiving workers' compensation to the Postal Service's retirement plan at such time as the employee would have become eligible for retirement notwithstanding the injury giving rise to the workers' compensation benefits.

The Federal Employees' Compensation Act (FECA) is the statute under which Federal employees are provided benefits for work-related injury or illness. It is administered by the Labor Department's Employment Standards Administration, Office of Workers' Compensation Programs.

To convert an individual from FECA benefits to CSRS or FERS retirement at some set time would be a most complex undertaking. While employer and employee contributions come into the Retirement Fund during periods of employment, no such contributions are made during the period an individual is on the FECA rolls. Thus, a funding mechanism would have to be established to support such transfers. Further, for employees under FERS, no Social Security benefits are accruing during that period, and the individuals' TSP contributions are not being made. Thus, simply transferring these individuals to FERS would leave them in a precarious financial situation.

The long-standing issues of FECA-retirement coordination are far beyond the scope of this paper. However, the President's FY 2005 Budget contains a commitment to pursue a comprehensive and balanced reform of the FECA, which has not been significantly amended since 1974. The Administration's reform proposal will be a balanced reform package, including measures to enhance incentives to return to work, address equity issues between FECA recipients



and Federal retirees, provide improved benefits to injured workers in some circumstances, adopt effective state practices, and correct other flaws in the structure of the FECA program.

One part of this reform will be a provision to convert FECA beneficiaries to an annuity-level benefit after they reach SSA retirement age (a level meant to parallel normal retirement pension benefits); elimination of the augmentation of benefits for dependents and raising the basic benefit slightly; restoration of an effective 3-day waiting period; and restructuring so-called "schedule awards" for permanent impairment to allow them to be paid simultaneously with wage-loss compensation. These reforms would result in net 10-year savings of more than \$500 million and would appropriately respond to the concerns expressed by the President's Commission.

#### **PROPOSAL W-10. ACCOUNTING FOR RETIREE HEALTH CARE OBLIGATIONS**

W-10. Accounting for Retiree Health Care Obligations. The Postal Service should review its current policy relating to the accounting treatment of retiree health care benefits, and work with its independent auditor to determine the most appropriate treatment of such costs in accordance with applicable accounting standards and in consideration of the Postal Service's need for complete transparency in the reporting of future liabilities. The Postal Service should consider funding a reserve account for unfunded retiree health care obligations to the extent that its financial condition allows.

The above recommendation addresses both the financial reporting and the funding provisions for post retirement health insurance by the Postal Service. OPM has never provided oversight of the Postal Service accounting and does not believe it has the expertise to advise on this matter.

As for creating a fund to prefund post-retirement medical benefits, OPM and the Administration have vigorously supported providing for these expenses during the careers of employees and have proposed such an arrangement in the Managerial Flexibility Act (MFA). However, that proposal excluded the Postal Service, not because we believed the principles did not apply, but because raising the revenue to fund these benefits was believed to be in the purview of the Postal Service. Another reason the USPS was excluded from the health benefits part of the MFA was that, unlike other Federal entities, USPS, not the Treasury General Fund, was paying a portion of its retiree health benefits premiums on a pay-as-you-go (annual) basis.

#### **PROPOSAL W-11. FUNDING MILITARY SERVICE**

W-11. Funding Military Service. Responsibility for funding Civil Service Retirement System pension benefits relating to the military service of Postal Service retirees should be returned to the Department of the Treasury.

Recommendation W-11 has been dealt with extensively elsewhere, and the Administration's opposition to this recommendation has been clearly presented. However, we will summarize that we believe the recently enacted legislation appropriately addressed this issue.

We understand the Postal Service may be considering a proposal to use Civil Service pension funds to prefund retiree health benefits. We do not know the specifics of such a proposal and although we support the concept of prefunding we do not believe it should be done using Civil Service pension funds.

## BENEFIT COST TRENDS

The following three tables show the history of costs for retirement, health insurance, and life insurance, for fiscal years FY 1990 through FY 2003, for the total Government – Postal and non-Postal combined. The Postal Service has agreed to provide a history of these costs for the Postal Service. These tables also show projected costs for the years FY 2004 through FY 2010 for Postal Service, non-Postal, and total Government. This information is being provided in response to question (3).

<b>Table 1 - Cost of Retirement Benefits – CSRS and FERS Combined</b>						
(Amounts in millions of dollars)						
<b>Fiscal Year</b>	<b>Postal Service</b>		<b>Non-Postal</b>		<b>Total</b>	
	<b>Agency Contrib</b>	<b>Supplemental Contrib - CSRS</b>	<b>Agency Contrib</b>	<b>General Fund Payment – CSRS</b>	<b>Agency Contrib</b>	<b>Other Payments</b>
1990					\$7,923	\$19,444
1991					\$8,540	\$20,969
1992					\$9,249	\$21,535
1993					\$9,644	\$23,023
1994					\$10,056	\$22,329
1995					\$9,938	\$22,784
1996					\$10,347	\$23,201
1997					\$10,667	\$24,486
1998					\$11,297	\$24,668
1999					\$11,944	\$24,828
2000					\$12,379	\$25,138
2001					\$12,883	\$25,394
2002					\$13,729	\$25,983
2003					\$14,676	\$21,878
2004	\$4,101	\$434	\$11,566	\$25,970	\$15,667	\$26,404
2005	\$4,187	\$434	\$12,769	\$26,372	\$16,956	\$26,806
2006	\$4,251	\$434	\$13,768	\$26,574	\$18,019	\$27,008
2007	\$4,314	\$434	\$14,927	\$26,777	\$19,241	\$27,211
2008	\$4,377	\$434	\$16,191	\$27,179	\$20,568	\$27,613
2009	\$4,440	\$434	\$17,509	\$27,682	\$21,949	\$28,116
2010	\$4,502	\$434	\$18,972	\$28,184	\$23,474	\$28,618

This table shows the agency contributions, the supplemental contributions made by the Postal Service, and the payment from the General Fund made by the Treasury each year, for CSRS and FERS combined. The projected CSRS agency contributions for the Postal Service are 18 percent of payroll, which equals the 25 percent CSRS dynamic normal cost less the 7 percent employee contribution. The projected Postal FERS agency contributions are 11.2 percent of payroll, which is the FERS dynamic normal cost of 12 percent less the employee contributions of 0.8 percent. The projected Postal 40-year amortization payments under CSRS are \$434 million per year. For non-Postal, the projected agency contribution are 7 percent of payroll for CSRS and 11.2 percent of payroll for FERS.

The projections are based on the short term economic assumptions used in the President's Budget for FY 2005, which are as follows:

	2004	2005	2006	2007	2008	2009	2010
CSRS COLA	2.1%	1.3%	1.5%	1.8%	2.1%	2.4%	2.5%
Salary Increase	4.1%	1.5%	4.0%	4.0%	4.0%	4.0%	4.0%

The long-term assumptions used in determining the dynamic normal cost for CSRS and FERS are a 3.25 percent rate of inflation, 4.0 percent annual general salary increases, and a 6.25 percent rate of interest.

Table 2 - Cost of Health Benefit Payments						
(Amounts in millions of dollars)						
Fiscal Year	Agency Contrib	Postal Service Actives Contrib	Postal Service Annts Contrib	Gov't Payment for Annuitant	Active Gov't Contributions	Annuitant Gov't Contributions
1990					\$5,743	\$3,188
1991					\$6,192	\$3,462
1992					\$6,702	\$3,759
1993					\$7,149	\$4,154
1994					\$7,400	\$4,409
1995					\$7,179	\$4,337
1996					\$6,953	\$4,403
1997					\$6,673	\$4,579
1998					\$6,876	\$4,808
1999					\$7,662	\$5,097
2000					\$8,290	\$5,745
2001					\$8,887	\$6,346
2002					\$9,896	\$7,009
2003					\$10,597	\$7,744
2004	\$8,186	\$4,466	\$1,338	\$7,304	\$12,652	\$8,642
2005	\$8,745	\$4,768	\$1,467	\$8,011	\$13,512	\$9,478
2006	\$9,281	\$5,121	\$1,600	\$8,667	\$14,402	\$10,267
2007	\$9,904	\$5,479	\$1,746	\$9,365	\$15,383	\$11,111
2008	\$10,698	\$5,850	\$1,902	\$10,123	\$16,548	\$12,025
2009	\$11,291	\$6,268	\$2,067	\$10,971	\$17,559	\$13,038
2010	\$12,090	\$6,711	\$2,220	\$11,928	\$18,801	\$14,148

This table shows total Government contributions and payments - Postal and non-Postal combined for actives and annuitants for fiscal years FY 1990 through FY 2003. Values for FY 1990 through FY 1996 are based upon FEHB premiums and enrollments during those periods. These contributions and payments do not include premium payments by enrollees. It also shows a projection of agency and Postal Service contributions for actives, and Postal Service contributions and Government payments for annuitants. Average annual premium increases are assumed to be 7 percent and the number of enrollments is assumed to remain constant.

In 2003 The Postal share of premiums for active employees was 83.6 percent, while for agencies the share of premiums for active employees was 70.9 percent. The corresponding share for all annuitants was 69.9 percent. The Postal Service contributions for its annuitants were reduced by approximately 29 percent because of the prorating of premiums for service before 1971. This reduction will diminish in future years since most new retirees have no service before 1971.

<b>Table 3 - FEGLI Basic</b> <b>Historic and Projected Contributions</b> (Amounts in millions of dollars)			
<b>Fiscal Year</b>	<b>Postal</b>	<b>Non-Postal</b>	<b>Total</b>
1990			\$315
1991			\$332
1992			\$351
1993			\$340
1994			\$347
1995			\$351
1996			\$348
1997			\$345
1998			\$354
1999			\$391
2000			\$394
2001			\$398
2002			\$417
2003			\$428
2004	\$228	\$253	\$481
2005	\$241	\$267	\$508
2006	\$253	\$279	\$532
2007	\$265	\$293	\$558
2008	\$278	\$307	\$585
2009	\$292	\$322	\$614
2010	\$306	\$339	\$645

The contributions for FEGLI Basic shown in the Table include employees and annuitants combined. The total Government contribution is an aggregate of the Postal contribution of 100 percent of the total FEGLI Basic premium for employees, plus the annuitant and Non-Postal agency contributions of 1/3 of the total FEGLI Basic premium. The Postal contributions were assumed to be 47.5 percent of total Government contributions for FYs 2004-2010.

**BENEFIT PROVISIONS OF TITLE 5, CODE OF  
FEDERAL REGULATIONS, THAT ARE APPLICABLE  
TO POSTAL EMPLOYEES**

**PART SUBJECT**

- 831 Retirement [Civil Service Retirement System]
- 835 Debt Collection [Civil Service Retirement System]
- 837 Reemployment Of Annuitants
- 838 Court Orders Affecting Retirement Benefits
- 839 Correction Of Retirement Coverage Errors Under The Federal Erroneous Retirement Coverage Corrections Act
- 841 Federal Employees Retirement System – General Administration
- 842 Federal Employees Retirement System – Basic Annuity
- 843 Federal Employees Retirement System – Death Benefits And Employee Refunds
- 844 Federal Employees' Retirement System – Disability Retirement
- 845 Federal Employees Retirement System – Debt Collection
- 846 Federal Employees Retirement System – Elections Of Coverage
- 847 Elections Of Retirement Coverage By Current And Former Employees Of Nonappropriated Fund Instrumentalities
- 870 Federal Employees' Group Life Insurance Program
- 875 Federal Long Term Care Insurance Program
- 880 Retirement And Insurance Benefits During Periods Of Unexplained Absence
- 890 Federal Employees Health Benefits Program
- 892 Federal Flexible Benefits Plan: Pre-tax Payment Of Health Benefits Premiums

**BENEFIT PROVISIONS OF TITLE 5, UNITED  
STATES CODE, THAT ARE APPLICABLE TO  
POSTAL EMPLOYEES**

**CHAPTER    SUBJECT**

Chapter 81 - Compensation for Work Injuries [Administered by Dept. Of Labor]

Chapter 83 - Retirement [Civil Service Retirement System]

Chapter 84 - Federal Employees' Retirement System

Chapter 85 - Unemployment Compensation [Administered by Dept. Of Labor]

Chapter 87 - Life Insurance

Chapter 89 - Health Insurance

Chapter 90 - Long-term Care Insurance

## SIGNIFICANT CODIFIED LEGISLATION AFFECTING POSTAL RETIREMENT

PUBLIC LAW	ENACTED	SUBJECT
66-215	05/22/20	Original Act establishing the Civil Service Retirement System (CSRS).
69-522	07/23/26	Major revision.
71-279	05/29/30	Major revision.
76-263	08/04/39	Liberalizes computation; provides for joint and survivor annuities.
77-411	01/24/42	Major revision.
80-426	02/28/48	Major revision.
80-879	07/02/48	Special retirement benefits for Law Enforcement Officers.
84-854	07/31/56	Complete revision of Civil Service Retirement Act. Establishes the basic structure of CSRS that continues to present.
85-426	05/27/58	Repealed prior requirement that Post Office Department not consider retirement contributions in establishing Postal rates.
87-350	10/04/61	Provided for investment of Retirement Fund in described class of Treasury securities.
91-93	10/20/69	Major revisions. Modified financing; changed high-5 to high-3; liberalized survivor provisions.
91-658	01/08/71	Liberalized provisions for survivor annuities, and service credit for time on workers' compensation.
93-349	07/12/74	Postal Service required to reimburse Retirement Fund for increases in unfunded liability resulting from Postal pay increases (5 U.S.C. §8348(h)).
93-350	07/12/74	Law enforcement officers provided substantial benefit increases and made subject to mandatory retirement.



## CODIFIED LEGISLATION AFFECTING POSTAL RETIREMENT

-2-

95-256	04/06/78	Eliminated prior requirement that employees be mandatorily retired at age 70.
98-21	04/20/83	Amendment of Social Security law to provide for coverage of new Federal employees.
99-335	06/06/86	Federal Employees' Retirement System (FERS) Act of 1986. Retirement benefits for employees of Postal Service and all other agencies funded by payment of normal cost percentage of basic pay at time service is performed.
101-239	12/13/89	Postal Service made responsible for CSRS unfunded liability arising from COLA costs for post-10/1/86 Postal retirees (5 U.S.C. §8348(m)).
101-508	11/05/90	Postal Service made responsible for CSRS unfunded liability arising from COLA costs for post-7/1/71 Postal retirees (5 U.S.C. §8348(m)).
108-18	04/23/03	Provided full funding for retirement of Postal Service employees under CSRS in a manner equivalent to the funding method for all employees under FERS. Prior provisions for other Postal payments repealed.

## NON-CODIFIED PROVISIONS RELATING TO USPS RETIREMENT FUND PAYMENTS

### **PAYMENTS BY POSTAL SERVICE RELATING TO CORRECTED CALCULATIONS FOR PAST RETIREMENT COLAS**

Pub. L. 103-66, title XI, Sec. 11101(a), Aug. 10, 1993, 107 Stat. 413, provided that: "In addition to any other payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund a total of \$693,000,000, of which -

"(1) at least one-third shall be paid not later than September 30, 1996;

"(2) at least two-thirds shall be paid not later than September 30, 1997; and

"(3) any remaining balance shall be paid not later than September 30, 1998."

### **PRE-1991 COST-OF-LIVING ADJUSTMENTS**

Section 7101(c) of Pub. L. 101-508, as amended by Pub. L. 102-378, Sec. 5(a)(1), Oct. 2, 1992, 106 Stat. 1358, provided that:

"(1) For the purpose of this subsection -

"(A) the term 'pre-1991 COLA' means a cost-of-living adjustment which took effect in any of the fiscal years specified in subparagraphs (A)-(N) of paragraph (3);

"(B) the term 'post-1990 fiscal year' means a fiscal year after fiscal year 1990; and

"(C) the term 'pre-1991 fiscal year' means a fiscal year before fiscal year 1991.

"(2) Notwithstanding any other provision of law, an installment (equal to an amount determined by reference to paragraph (3)) shall be payable by the United States Postal Service in a post-1990 fiscal year, with respect to a pre-1991 COLA, if such fiscal year occurs within the 15-fiscal-year period which begins with the first fiscal year in which that COLA took effect.

"(3) Notwithstanding any provision of section 8348(m) of title 5, United States Code, or any determination thereunder (including any made under such provision, as in effect before October 1, 1990), the estimated increase in the unfunded liability referred to

in paragraph (1) of such section 8348(m) shall be payable, in accordance with this subsection, based on annual installments equal to -

"(A) \$6,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1977;

"(B) \$7,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1978;

"(C) \$10,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1979;

"(D) \$20,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1980;

"(E) \$26,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1981;

"(F) \$28,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1982;

"(G) \$30,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1983;

"(H) \$5,700,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1984;

"(I) \$19,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1985;

"(J) \$7,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1986;

"(K) \$8,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1987;

"(L) \$36,800,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1988;

"(M) \$51,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1989; and

"(N) \$63,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1990.

"(4) Any installment payable under this subsection shall be paid by the Postal Service at the same time as when it pays any installments due in that same fiscal year under section 8348(m) of title 5, United States Code.

"(5) An installment payable under this subsection in a fiscal year, with respect to a pre-1991 COLA, shall be in lieu of any other installment for which the Postal Service might otherwise be liable in such fiscal year, with respect to such COLA, under section 8348(m) of title 5, United States Code."

(Amendment by Pub. L. 102-378 to section 7101(c) of Pub. L. 101-508, set out above, effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.)

**PAYMENTS RELATING TO AMOUNTS WHICH WOULD HAVE BEEN DUE BEFORE FISCAL YEAR 1987**

Section 7103 of Pub. L. 101-508 provided that:

"(a) Definition. - For the purpose of this section, the term 'pre-1987 fiscal year' means a fiscal year before fiscal year 1987.

"(b) For Past Retirement COLAs. - As payment for any amounts which would have been due in any pre-1987 fiscal year under the provisions of section 8348(m) of title 5, United States Code (as amended by section 7101) if such provisions had been in effect as of July 1, 1971, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund -

- "(1) \$216,000,000, not later than September 30, 1991;
- "(2) \$266,000,000, not later than September 30, 1992;
- "(3) \$316,000,000, not later than September 30, 1993;
- "(4) \$416,000,000, not later than September 30, 1994; and
- "(5) \$471,000,000, not later than September 30, 1995.

**CERTAIN POSTAL SERVICE ANNUITANTS; SIZE OF ANNUAL INSTALLMENTS TO FUND PREVIOUS YEARS' COLAS**

Section 4002(b)(2) of Pub. L. 101-239, which provided that notwithstanding any provision of section 8348(m) of this title the estimated increase in the unfunded liability referred to in section 8348(m)(1) was to be payable based on annual installments equal to specified amounts for fiscal years 1987 to 1989, was repealed by Pub. L. 101-508, title VII, Sec. 710(b), Nov. 5, 1990, 104 Stat. 1388-331.

**CERTAIN POSTAL SERVICE ANNUITANTS; ADDITIONAL AMOUNT PAYABLE**

Section 4002(b)(3) of Pub. L. 101-239, which provided that first payment made under provisions of section 8348(m) of this title was to include, in addition to the amount which would otherwise have been payable at that time, an amount equal to the sum of any amounts which would have been due under those provisions in any prior year if this section had been enacted before Oct. 1, 1986, and which provided the method of

computation, was repealed by Pub. L. 101-508, title VII, Sec. 7101(b), Nov. 5, 1990, 104 Stat. 1388-331.

#### **SECTION 4002 OF P.L. 101-239**

#### **SEC. 4002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.**

(a) IN GENERAL- Section 8348 of title 5, United States Code, is amended by adding at the end the following:

“(m)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to former employees of the Postal Service who first become annuitants by reason of separation from the Postal Service on or after October 1, 1986, or to their survivors, or to the survivors of individuals who die on or after October 1, 1986, while employed by the Postal Service, when the increase results from a cost-of-living adjustment under section 8340 of this title.

(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office after consultation with the Postal Service. The Postal Service shall pay the amount so determined to the Office in 15 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, and with the first payment thereof due at the end of the fiscal year in which the cost-of-living adjustment with respect to which the payment relates becomes effective.

“(3) In determining any amount for which the Postal Service is liable under this subsection, the amount of the liability shall be prorated to reflect only that portion of total service (used in computing the benefits involved) which is attributable to civilian service performed after June 30, 1971, as estimated by the Office.’.

#### **(b) EFFECTIVE DATE; SIZE OF ANNUAL INSTALLMENTS TO FUND EARLIER COLAS; ADDITIONAL AMOUNT INITIALLY PAYABLE-**

(1) EFFECTIVE DATE- This section and the amendment made by this section shall be effective as of October 1, 1986.

(2) SIZE OF ANNUAL INSTALLMENTS TO FUND PREVIOUS YEARS' COLAS- Notwithstanding any provision of section 8348(m) of title 5, United States Code (as added by subsection (a)), the estimated increase in the

unfunded liability referred to in paragraph (1) of such section 8348(m) shall be payable based on annual installments equal to--

- (A) \$100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1987;
- (B) \$6,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1988; and
- (C) \$15,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1989.

(3) ADDITIONAL AMOUNT PAYABLE-

(A) GENERALLY- The first payment made under the provisions of section 8348(m) of title 5, United States Code (as added by subsection (a)) shall include, in addition to the amount which would otherwise be payable at that time, an amount equal to the sum of any amounts which would have been due under those provisions in any prior year if this section had been enacted before October 1, 1986.

(B) COMPUTATION METHOD- Subject to paragraph (2), the additional amount payable under this paragraph shall be computed in accordance with section 8348(m) of title 5, United States Code (as added by subsection (a)), and shall include interest. Interest on an amount--

- (i) shall be computed at the rate used in the most recent valuation of the Civil Service Retirement System;
- (ii) shall accrue, and be compounded, annually; and
- (iii) shall be computed for the period beginning on the date by which such amount should have been paid (if this section had been enacted before October 1, 1986) and ending on the date on which payment is made.

## SUMMARY OF THE LEGISLATIVE HISTORY OF THE FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB) PROGRAM

Prior to the Federal Employees Health Benefits (FEHB) Program, there was a great emphasis on the concept of a national health insurance program. The Roosevelt and Truman Administrations were particularly keen on this idea. And, together with Congressional concern about the development of fringe benefits in the private sector, there were many health insurance proposals in the 1940's and 1950's that outlined the creation of a national health insurance program.

The Eisenhower Administration shifted away from this emphasis. Rather than a national health insurance program, the Administration stressed the extension of voluntary health insurance. The Administration clearly understood the need to improve and strengthen the civil service. There was direct competition with the private sector and in order to make the Government a reasonably competitive employer, improvements in a variety of areas were needed. The availability of health insurance to civil service employees was one identified as one of those improvements.

The Eisenhower Administration submitted proposals in 1954, 1955, 1956 and 1957. None of the proposals came out of Committee, mostly due to disagreements between and among employee groups, carriers and proponents of the bills on various provisions.

In 1959, the initiative for sponsoring health benefits legislation actually shifted away from the Administration. In January of 1959, the Chairman of the Senate Committee on Post Office and Civil Service, Senator Olin D. Johnston, introduced S. 94. The bill's specific intent was to provide health insurance for Federal employees. This bill, although not enacted into law, created the basic framework and principles that largely characterize the FEHB Program today.

The Committee revealed several problems with S. 94 and rather than revising the bill, it reported a new bill, S. 2162, to the Senate. This bill simplified some issues and after a few amendments by both the House and the Senate, it was submitted to the President. The President signed it into law in September, 1959. It was known as Public Law 86-382, The Federal Employees Health Benefits Act of 1959.

Public Law 86-382, approved on September 28, 1959, authorized the Civil Service Commission (predecessor to the Office of Personnel Management, or OPM) to contract with qualified insurance carriers for purposes of offering group health plan coverage to eligible Federal employees with a Government contribution. This enabling legislation indicated that all health plans should include comprehensive hospital and major medical

benefits, but left specific benefits packages to contract negotiations. The FEHB Program began on July 1, 1960. The FEHB law is codified in chapter 89 of title 5, United States Code.

The law made enrollment voluntary. Employees could elect self only or self and family coverage. Termination of coverage could be done at any time. Also, enrolled employees who retired and met certain criteria, and their enrolled family members who qualified for survivor annuity, were eligible to continue the same coverage offered to active employees with the same Government contribution. Two particular areas of important debate that took place included immediate coverage with no waiting period and coverage for pre-existing conditions. These two concepts were unthinkable to health carriers in 1960. Even so, discrimination on the basis of health status has been prohibited under the FEHB Program since the beginning.

At inception, the Government contribution was set at 50 percent of the lowest rate charged for the Government-wide plans. Also, the original Act provided for a smaller Government contribution to self and family enrollments of female employees and female annuitants with nondependent spouses, the basis being that, when physically and mentally capable, the husband should have the responsibility of providing health benefits coverage for the family.

In 1964, P.L. 88-284 extended coverage to foster children and extended coverage of children up to the age of 21 (from 19 years of age). Most importantly, in consideration of the "President's Report on the Status of Women," and recommendations from various Congressional members and employee organization representatives, the difference in Government contributions for male and female enrollees was eliminated. This amendment brought realization to one of the goals of the FEHB Act; that is, the guarantee that any Federal employee or annuitant would be able to get the best health insurance coverage available.

P.L. 89-504, enacted in 1966, served to extend coverage for eligible children up to age 22. This would allow for coverage of eligible children through four years of college coursework. Also, the law increased the Government contribution for the first time since the Program's inception. Over the previous years, the fixed maximum for the Government contribution and increasing health benefit premiums resulted in enrollees, particularly in the high options, paying a greater and greater percentage of the premium. As an example, by 1966, enrollees in the Service Benefit Plan's high option were paying 71.6 percent of the premium.

In 1970, P.L. 91-418 provided for another increase to the Government contribution. The contribution amounted to 40 percent of the average high option premium for the Service Benefit Plan, Indemnity Plan, the two organization plans with the largest number of enrollments and the two comprehensive medical plans with the largest number of enrollments. In an effort to guarantee that the proportion of the Government share



remained constant relative to premium future premium increase, the Government contribution was to be adjusted every January 1 to coincide with the effective date of the annual health premium rate adjustments.

Prior to this time, the Government contribution was based on premium costs related to “low” options. This was based on a presumption that the majority of Federal employees would elect “low” option benefit packages. On the contrary, over 85 percent of all covered employees had selected coverage in one of the various high options available. This resulted in the Government contribution for high option premiums never exceeding 39.4 percent. This percentage had dropped to 25.2 by 1969. It was a perpetual situation that placed the burden of rate increases strictly in the hands of enrollees. P.L. 91-418 provided a remedy that would no longer require rate increases to be borne solely by enrollees.

P.L. 91-418 also permitted survivor annuitants to continue coverage upon the death of an employee who completed less than 5 years of creditable civilian service. This amendment was done to conform to a change in the retirement law that was liberalized to extend annuities to survivors of employees who had completed at least 18 months of service before their death.

In 1974, P.L. 93-246, the Federal Employees Health Benefits Government Contribution Increase Act, provided for a maximum Government contribution equal to 60 percent of the unweighted average of the high option premiums for the six large plans.

Also, the amendment required carriers to agree to pay for or provide a health service or supply in an individual case if OPM determines that the person is entitled to the benefit. This amendment gave OPM a mechanism to “direct” a health carrier to pay for services or supplies if it found, through the disputed claims review process, contrary to a carrier’s final disputed claims decision to deny the service or supply.

P.L. 94-342 (1976), provided that a surviving spouse who was covered under the FEHB Program when a survivor annuity was terminated because of remarriage, is eligible to enroll in the FEH Program if the survivor annuity is restored.

In 1978, P.L. 368 established uniformity in benefits and coverage under the FEHB Program by preempting certain State and local laws that are inconsistent with FEHB contracts. In this same year, P.L. 95-437 granted part-time career employees the opportunity to be covered under the FEHB Program.

In 1984, P.L. 98-615 (Spouse Equity Act) permitted certain former spouses to enroll in the FEHB Program. Prior to this amendment, there was very little “protection” afforded to former spouses, most of whom had no viable way of gaining health insurance coverage after the dissolution of a marriage to a Federal employee.

In 1985, P.L. 99-53 permitted disability annuitants who were enrolled in the FEHB Program and whose annuity was terminated and later restored to re-enroll under certain conditions.

In 1986, the Federal Employees Benefits Improvement Act (P.L. 99-251) was passed. This Act gave OPM the authority to waive the requirements needed to carry coverage into retirement. Through experience, OPM found that in some cases there were extenuating or exceptional circumstances that precluded an employee from meeting the requirement(s). Therefore, OPM was given this waiver authority for cases where it would be against equity and good conscience not to allow such an individual to be enrolled as an annuitant.

The Act also required OPM to conduct an Open Season whenever certain conditions occur (adjustment to rates, a newly approved plan is offered or an existing plan is terminated). The Act allowed for the reimbursement for services provided by a qualified clinical social worker and expanded the types of plans allowed to participate in the FEHB Program by now including Mixed Model Plans. Lastly, it permitted certain former spouses who were previously denied benefits under P.L. 98-615 to participate in the FEHB Program.

In 1986, P.L. 99-272 (Consolidated Omnibus Budget Reconciliation Act, or COBRA) required the U.S. Postal Service to pay the Government contribution for individuals who retired from the Postal Service on or after January 1, 1986. This Act served as the foundation for the FEHB Program's Temporary Continuation of Coverage (TCC) provision to be incorporated in 1988.

P.L. 100-654 (Federal Employees Health Benefits Amendments Act), passed in 1988, authorized OPM to bar from participation any provider found to be participating in fraudulent practices and/or those who have been convicted of certain criminal offenses. The Act also incorporated the FEHB Program's version of COBRA. It allowed for TCC for employees who separate from service, individuals who no longer meet the unmarried dependent child requirement and former spouses not eligible for coverage under spouse equity.

In 1990, P.L. 101-508 established hospitalization cost containment measures for fee for service (FFS) plans. This limited what a hospital could charge a retired FEHB member over the age of 65 who is not covered to receive Medicare Part A (hospital) benefits. A FFS plan is not required to pay for charges to the extent that such charges exceed applicable limitations on hospital charges established for Medicare purposes under section 1886 of the Social Security Act. This only applies to services that are covered by Medicare Part A.

P.L. 101-508 also extended the "Phantom" formula used to determine the Government contribution. The Indemnity Plan (Aetna) previously used in the Big Six formula

dropped out of the FEHB Program at the end of 1989. Since the Indemnity Plan was a plan required to be used in the Big Six calculation, a phantom formula was used to simulate the Big Six formula. The five remaining formula plans were used and a "Phantom" premium was used in place of the Indemnity Plan. This effectively kept the Government share of the total program costs near 72 percent.

In 1992, P.L. 103-66 applied limits to Medicare Part B services (similar to the limits applied by P.L. 101-508). These limits apply to physician care provided to retirees over age 65 who do not have Medicare. This law also extended the Phantom formula.

P.L. 104-191, Health Insurance Portability and Accountability Act of 1996 (HIPAA) was enacted in 1996. This amended the Public Health Service Act, however; it had an impact on the FEHB Program. It improved the availability and portability of health insurance for working individuals. FEHB carriers must provide certificates of coverage to assist with the portability of coverage. Another requirement made by this Act was the adoption of standards and requirements for the electronic submission of certain health information.

In 1997, P.L. 105-33, Balanced Budget Act of 1997, was enacted. This Act authorized a new Government contribution formula effective on the first day of the contract year that began in January 1999. The intent of the new formula, known as the "Fair Share" formula, is to maintain a consistent level of Government contributions at 72 percent of the total program costs, regardless of the FEHB enrollment patterns.

The Fair Share Government contribution is an amount equal to 72 percent of the program-wide weighted average of subscription charges, for self only and for self and family enrollments, respectively, but not to exceed 75 percent of the subscription charge for a particular plan.

P.L. 105-266, Federal Employees Health Care Protection Act of 1998, amended the FEHB law concerning Government organizations and employees to revise provisions regarding the debarment of any health care provider found to have engaged in fraudulent practices, including requiring (formerly stated: permitting) debarment for certain fraudulent practices.

The Act modified the definition of a carrier, specified that the Government-wide Service Benefit Plan may be underwritten by participating affiliates licensed in each State and revised State preemption provisions. It also extended FEHB Program coverage to certain employees of the: (1) Federal Deposit Insurance Corporation; and (2) Federal Reserve Board.

This Act also required the Office of Personnel Management to encourage carriers that enter into contractual arrangements made with any person to obtain discounts from providers for health care services or supplies to seek assurance that the conditions for such discounts are fully disclosed to the providers who grant them.

P.L. 106-394, Federal Employees Health Benefits Children's Equity Act of 2000, amends FEHB law to direct the agency of an unenrolled employee who is required by a court or administrative order to provide health insurance coverage for a child who meets FEHB requirements to enroll the employee in a self and family enrollment option which provides the lower level of coverage under the Service Benefit Plan, if such employee fails to enroll for self and family coverage in a health benefits plan that provides full benefits and services in the location in which the child resides and does not provide documentation showing that such coverage has been provided through other health insurance.

P.L. 107-107, National Defense Authorization Act, allows an employing agency to pay FEHB Program premiums for certain military reservists that are called to active duty.

## SUMMARY OF THE LEGISLATIVE HISTORY OF THE FEDERAL EMPLOYEES' GROUP LIFE INSURANCE (FEGLI) PROGRAM

Although group life insurance was first offered as an employee benefit in 1912 and the concept as a whole grew rapidly throughout the first part of the 20<sup>th</sup> century, by the mid-1940s the Federal Government had yet to consider a group life insurance benefit for its employees. In October 1945, two insurance agents contacted the Retirement Division at the U.S. Civil Service Commission with the idea of providing group life insurance for Federal employees. Commission officials were in favor of such a plan, on an employee-pay-all basis and decided to explore the possibility further.

Meetings were held with nine life insurance companies to discuss group life insurance for Federal employees. Issues discussed at the meeting included the amount of such coverage, payroll deductions, and which companies would underwrite the policies. Discussions continued, with various proposals and counterproposals, over the next several years.

In May 1949, Congressman Monroe M. Redden (D, NC) held a meeting with representatives of 35 insurance companies. A resolution was drafted and unanimously passed stating the agreement of all present to cooperate in bringing about a group life insurance benefit for the Federal workforce. In an effort to keep the administrative cost down, the plan envisioned one company managing the insurance benefit, with the other companies participating through reinsurance agreements; however, initially no company was willing to accept so large a responsibility. By the early 1950s, no action had been taken to bring about a group life insurance benefit for Federal employees.

An executive of the Eastman Kodak Company, who was instrumental in the development of company benefits for Kodak employees, became Under Secretary of Treasury in the Eisenhower administration. The Under Secretary worked closely with the President in preparing a nine-point personnel program, which President Eisenhower issued February 24, 1954. The third of the nine points was a program of contributory group life insurance, on a voluntary basis, for all Federal employees. The Under Secretary was commissioned to implement this point.

Representatives from various life insurance companies, the Civil Service Commission, and the Department of Justice (to provide advice regarding any anti-trust implications) met and developed a plan for administering and financing a Federal life insurance program. The Civil Service Commission drafted the enabling legislation.

Legislation was introduced on May 24, 1954. Hearings were held June 10 and 11. The legislative proposal stated that group life insurance was an essential part of a well-rounded benefits program. It would give Federal service an appeal that would enable the Government to

attract and keep highly qualified employees. It would also increase employees' sense of family security, which would result in better morale and increased productivity. Because of the reduction feature at age 65, the coverage was intended to be supplemental insurance and was not meant to replace any life insurance that employees already had or were considering buying.

Under the life insurance legislation nearly all civilian employees of the executive, legislative, and judicial branches of the Federal Government (and the Government of the District of Columbia) would be eligible. The amount of life insurance would be equal to an employee's annual salary, rounded to the next higher \$1,000, subject to a maximum of \$20,000. The insurance would also include accidental death and dismemberment (AD&D) coverage. The face value of the coverage would be reduced by 2 percent per month beginning at age 65, with a minimum amount of 25 percent retained. The legislation set out an order of precedence for the payment of death benefits, which was identical to that already in place for the payment of lump-sum retirement benefits and accrued leave and salary.

The bill provided for the termination of the life insurance when an employee separated from service, except for an employee retiring on an immediate annuity with at least 15 years of creditable civilian service, or an employee retiring on disability. Such retiring employees were eligible to continue their life insurance without the AD&D coverage. The legislation also provided for the termination of insurance after an employee was in nonpay status for 12 months. When the insurance terminated, there was to be a temporary extension of coverage and the right to convert to an individual policy.

Coverage would be automatic, unless an employee opted out of the program. The primary reason for the automatic coverage was that the Civil Service Commission expected 75 percent participation. In the interest of expediting program operation, it was believed that handling waivers from 25 percent of employees made more sense than handling elections from 75 percent of employees. It was also felt that the automatic coverage would guarantee protection to employees' families in case an employee inadvertently failed to make an election.

The cost of the insurance would not exceed 25¢ biweekly for each \$1,000 of coverage. The employing agency would contribute an amount not exceeding one-half the amount withheld from the employee's salary. The insurance would be free once an employee reached age 65 and the coverage started reducing. The insurance would also be free once an employee retired.

The bill was passed in both the House and the Senate on August 3, 1954, and was signed into law by President Eisenhower on August 17, 1954. It was designated as Public Law 83-598.

The legislation authorized the Civil Service Commission to contract with one or more life insurance companies that were licensed in every State and the District of Columbia and that had in force at least 1 percent of the total employee group life insurance in the United States as of the most recent December 31. One company would be selected to administer the program through a central office under a name non-descriptive of the administering company, and other insurance

companies would participate in the program as reinsurers, thus obviating the need for competitive bidding.

Once the legislation was enacted, letters were sent to 292 eligible life insurance carriers inviting participation in the new Federal Employees' Group Life Insurance (FEGLI) Program and to select an administrator. Eight companies were qualified to be the prime insurer. Based solely on the fact that it was the largest company in the group life insurance field, Metropolitan Life Insurance Company (MetLife) was recommended. MetLife established the Office of Federal Employees' Group Life Insurance (OFEGLI), whose primary function was to pay claims.

The FEGLI Program became effective August 29, 1954, and instantly became the largest employer-sponsored group life insurance program in the world. The quick time frame – just 12 days after the enacting legislation was signed – was because of a desire to insure as many as possible of the employees who would soon be retiring and employees who, based on statistical estimates, were soon likely to die. (Approximately 2,000 insured employees retired in the first week after the Program went into effect, and about 250 employees died during the same period.) While it was expected that approximately 25 percent of Federal employees would waive the coverage, only 5 percent did so.

Public Law 84-356, enacted August 11, 1955, allowed periods of honorable active service in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard to be credited toward the 15 years of service required for continuing FEGLI into retirement. The retiring employee must have completed at least five years of civilian service. This amendment was retroactive to the date of enactment of the original Act, August 17, 1954.

Early in the operation of the FEGLI Program an oversight came to light. An employee who suffered a disability because of an on-the-job illness or injury was eligible to receive compensation from the Department of Labor, Bureau of Employees Compensation. If the employee had five years of civilian service, he/she could elect the higher of this compensation or a Civil Service disability annuity. It was usually in the employee's financial interest to elect compensation; however, in doing so he/she was no longer eligible for FEGLI. Public Law 84-541, enacted May 28, 1956, closed this loophole. It allowed employees who are receiving compensation at the time their insurance would otherwise terminate (due to separation or completion of 12 months in nonpay) to continue their FEGLI as long as they are in receipt of compensation and held by the Department of Labor to be unable to return to duty.

The original FEGLI law excluded from coverage any commissioned officers or enlisted personnel on active duty. This was because all members of the uniformed services had free life insurance under the Servicemen's Indemnity Act of 1951. Public Law 84-881, enacted August 1, 1956, repealed the Servicemen's Indemnity Act and provided that it would only be revived in case of war or national emergency. Because the existing FEGLI exclusion for members of the military would be cumbersome if it only applied at such times as the Servicemen's Indemnity Act was in place, Public Law 84-881 broadened the exclusion for any member of a uniformed

service and also provided that insurance would terminate for any employee who entered on active duty.

The 2 percent reduction feature for all insured individuals age 65 and older, regardless of their employment status, was a controversial provision from the beginning. Many in Congress and at the Commission felt that this needed to be changed. Public Law 86-377, enacted September 23, 1959, changed the reduction provision to apply when an individual reached age 65 or retired, whichever was later. This allowed active employees to retain the full face value of their insurance. Public Law 86-377 also stated that employees were not required to pay retroactive premiums for the period from August 1954 until enactment. This law also reduced the service requirement for continuing FEGLI into retirement from 15 years to 12 years.

By the end of 1956, there was pressure from Congress and employee organizations to liberalize benefits under FEGLI. Over the next several years many hearings were held and bills introduced which would increase benefits. Each proposal was thoroughly discussed and debated, with special emphasis being placed on the costs involved.

On December 16, 1967, Public Law 90-206 was enacted. This legislation made several important changes to the FEGLI Program:

- It established a minimum level of coverage at \$10,000;
- It added an additional \$2,000 of coverage, which would reduce at age 65 in retirement on the same basis as the original coverage; and
- It increased the maximum amount of coverage to \$32,000 and tied it to level II of the Executive Pay Schedule; when the level II salary increased, the maximum amount of FEGLI coverage would also increase

These changes became effective on the first day of the first pay period starting on or after February 14, 1968.

The biggest change made by Public Law 90-206 was the introduction of optional insurance. The new law allowed insured employees to purchase an additional \$10,000 of coverage, which also included accidental death and dismemberment coverage. The law also provided that if an employee's "regular" insurance coverage was capped by the level II Executive Pay maximum, the amount of optional insurance could be increased to an amount which, when added to the amount of regular insurance, equaled the employee's annual pay. (This was done to benefit the President; it also incidentally benefited the Vice President and the Speaker of the House.) The same order of precedence for paying benefits applied to optional insurance as for regular insurance.

The new optional insurance was on an employee-pay-all basis. While the premium for regular insurance was the same for all employees, the law authorized the Civil Service Commission to set premiums for optional insurance by age groups.



Public Law 95-583, enacted November 2, 1978, significantly changed the requirements for continuing coverage into retirement (or receipt of compensation). Prior to the enactment of this law, retiring employees needed 12 years of service in order to continue FEGLI, unless the retirement was for disability. There was no requirement as to how long the employee had to have FEGLI coverage itself.

The new law removed the requirement for 12 years of service but replaced it with a requirement for retiring employees and those becoming insured as compensationers to have FEGLI coverage either for the five years of service immediately preceding retirement or the receipt of compensation or for the full period(s) of service during which the coverage was available to the employee.

Another change made by Public Law 95-583 was to apply the same post-65 reductions for regular and optional insurance to compensationers as were in place for annuitants. Prior to the enactment of this law, compensationers did not have reductions in coverage when they reached age 65.

By the late 1970s, the FEGLI Program was coming under increasing criticism from employees, unions, annuitants, the General Accounting Office, Congress, and many others as no longer being comparable to the type of benefit offered in the private sector. A MetLife survey of the group life insurance plans of 40 major employers showed that optional insurance was becoming increasingly popular among employers; and for 70 percent of private employers, this optional coverage terminated at the employee's retirement.

A 1978 actuarial study conducted by the Commission found that 20 percent of new hires were waiving all FEGLI coverage. Younger employees were able to buy higher amounts of coverage in the private market for the same cost. And, the level of coverage for annuitants didn't reward those who had paid into FEGLI for their full Federal careers, but it was too generous to annuitants who only participated briefly.

In 1978, the Commission submitted the first of several legislative proposals intended to address the problems with the FEGLI Program. These proposals included offering two new types of optional insurance, providing increased amounts of regular insurance for employees under age 45, requiring annuitants to pay for regular insurance until they reached age 65, and permitting an increased amount of post-retirement coverage based on the number of years a retiring employee had participated in the Program.

During this year, Public Law 95-583 changed the requirements for continuing FEGLI into retirement. Employees were now required to have the coverage for the five years of service immediately preceding their retirement. Employees would therefore have to pay premiums for at least five years before becoming eligible for free post-retirement coverage.

In January 1979 the Civil Service Commission became the Office of Personnel Management (OPM), under Public Law 95-454, enacted October 13, 1978.

There was Congressional concern over the costs of providing extra coverage under regular insurance for younger employees and in increasing post-retirement regular coverage. OPM officials provided testimony to House and Senate subcommittees in June, 1979, and September 1980, that addressed the Congressional concerns.

The resulting legislation, Public Law 96-427 (the Federal Employees' Group Life Insurance Act of 1980), enacted October 10, 1980, made sweeping changes to the FEGLI Program. The major changes can be summed up as follows:

- Increased coverage under regular insurance (now called Basic insurance) for employees, annuitants, and compensationers under age 45 at no cost;
- Post-65 reduction elections for Basic insurance for retiring employees;
- Premium withholdings for Basic insurance for annuitants and compensationers under age 65; and
- Two new types of optional insurance (Additional Optional Insurance, AOI – currently called Option B and Family Optional Insurance, FOI – currently called Option C).

The Act also included a provision for the payment of premiums by annuitants under age 65. This provision was effective for those retiring on or after January 1, 1990. From that point on, individuals retiring at age 55 would have to pay premiums for a minimum of 15 years: the last five years of service before retiring and ten years following retirement before reaching age 65.

Public Law 99-335, enacted June 6, 1986, excluded from coverage any employee first employed by the D.C. government on or after October 1, 1987. Those already employed by the D.C. government as of that date could keep their FEGLI coverage. (Subsequent legislation enacted August 5, 1997; October 21, 1998; and November 22, 2000, brought certain groups of D.C. Government employees back under the FEGLI Program.)

Another change made by this law to the FEGLI Program affected Federal employees who are called up to active military duty. Since the enactment of Public Law 84-881 in 1956, FEGLI coverage had terminated whenever a Federal employee entered active military duty. Public Law 99-335 changed that. Federal civilian employees entering on active military duty could continue their FEGLI for up to 12 months at no cost, just as any other Federal employee who went into nonpay status.

Public Law 103-336, enacted October 3, 1994, allowed all Federal employees, annuitants, and compensationers to make an irrevocable assignment of ownership of their FEGLI coverage. (Judges had been able to do this since Public Law 98-353 was enacted July 10, 1984.)

Assignments may be made to pay a debt, for tax and estate planning, to comply with a court order, or for a seriously ill insured individual to obtain cash from a viatical company. Once an individual makes an assignment, he/she loses the right to reduce or cancel coverage or to designate a beneficiary.

Legislation concerning living benefits was introduced in 1991, but no action was taken. Legislation was introduced again in the 103<sup>rd</sup> Congress and was enacted October 25, 1994, as Public Law 103-409. The new legislation allowed insured employees, annuitants, and compensationers to elect a living benefit if they were terminally ill with a life expectancy of nine months or less. The provisions of this law became effective July 25, 1995.

There was a longstanding loophole in the FEGLI Program that enabled insured individuals to ignore the provisions of court orders relating to divorce or legal separation. Often such court orders required an individual to designate a specific person(s) to receive his/her life insurance proceeds. Under the FEGLI Program insured individuals could designate whomever they wanted and could change their designations at will. There was no way to enforce compliance with the terms of a court order. Legislation was introduced in 1996 and passed the House, but the Senate took no action. Legislation was introduced again in the 105<sup>th</sup> Congress and enacted July 22, 1998, as Public Law 105-205. Under this legislation any insurance benefits that would be paid under the statutory order of precedence would instead be paid in accordance with the terms of a court order.

By the mid 1990s, Congress had become interested in making improvements to the FEGLI Program. At the same time, OPM was interested in making improvements to the FEGLI Program. OPM responded to numerous Congressional inquiries and provided testimony in April 1997, before the Subcommittee on Civil Service of the House Committee on Government Reform and Oversight concerning the FEGLI Program. On August 29, 1997, OPM submitted a legislative proposal that proposed numerous changes to the Program.

Legislation was finally enacted October 30, 1998, as Public Law 105-311, Federal Employees Life Insurance Improvement Act. The final legislation combined aspects of previously submitted bills. It did the following:

- Repealed the maximums on Basic insurance and Option B;
- Included foster children as eligible family members under Option C;
- Made incontestability statutory;
- Allowed direct payment of premiums for any employee, annuitant, or compensationers whose pay, annuity, or compensation was too low to make withholdings;
- Allowed retiring employees (and compensationers) to elect unreduced Options B and C;
- Established a three-year demonstration project for the portability of Option B upon termination; and
- Increased the amount of coverage available under Option C.

While there has been no significant legislation enacted since the Federal Employees Life Insurance Improvement Act, other events have taken place affecting the FEGLI Program.

Public Law 105-311 required OPM to conduct a study of various life insurance options for Federal employees to determine whether there was interest in group universal life insurance (GUL), group variable universal life insurance (GVUL), and additional voluntary accidental death and dismemberment insurance (VAD&D). The law required OPM to submit a report to Congress on the results of the study.

OPM submitted its report to Congress May 4, 1999. On July 27, 1999, OPM testified before the Subcommittee on Civil Service of the House Committee on Government Reform concerning OPM's implementation of the Federal Employees Life Insurance Improvement Act and the interest of Federal employees in new life insurance products.

In the spring of 2001, OPM began gathering data concerning portability in support of a report required by Public Law 105-311. The data showed that fewer than 3 percent of those eligible to port their coverage did so. It also appeared that adverse selection was taking place, i.e., only the least healthy individuals were porting Option B. The data indicated that Federal employees and annuitants were subsidizing those who had separated from Federal service and those who were in an extended period of nonpay.

Based on this data, OPM's report, submitted to Congress on December 7, 2001, recommended that the portability provision be allowed to terminate at the end of the three-year demonstration project. Congress took no action to extend the provision, so portability terminated at the end of April 2002.

**Post-Hearing Questions for the Record  
Submitted to William Young  
From Senator Daniel K. Akaka**

**“Preserving a Strong United States Postal Service: Workforce Issues”**

**February 24, 2004.**

Question:

The National Association of Letter Carriers was an early supporter of postal reform, including the use of price-cap model for regulation postal rates. Do you believe such a model could end up holding down the growth of wages and benefits for postal employees?

Answer:

Over the past 30 years, postal wage and postage rate inflation closely tracked the general rate of inflation in the US economy. Over the same period, significant labor productivity gains (about 40% according to the BLS) have helped the Postal Service to offset rising benefit costs (mainly health care costs) and to absorb the elimination of taxpayer subsidies. This satisfactory result depended on ever-rising mail volume. In the absence of rising mail volume, a new business model and a new rate-setting process are needed.

NALC supports a streamlined rate-making process that will give the Postal Service the flexibility to adjust its services and prices to meet the needs of its customers in a timely manner that avoids costly litigation. In this context, a properly constructed price index model would not inappropriately hold down postal compensation rates if it were coupled with two other key reforms: (1) a prohibition on interference in collective bargaining by postal regulators; and (2) increased commercial freedom for the Postal Service to allow it to expand services and raise efficiency.

Letter carriers are convinced that commercialization will permit postal workers to do what they have done for the past 30 years – earn their wages and benefits through improved productivity.

Post-Hearing Questions for the Record  
Submitted to William Young  
From Senator Frank Lautenberg

**“Preserving a Strong United States Postal Service: Workforce Issues”**

February 24, 2004.

Question 1:

The Postal Commission found that compensation negotiations using the existing collective bargaining process have taken as much as 13 to 17 months.

In its Report, the Commission has proposed a “mediation and arbitration process” that would take a total of 90 days.

What are the specific features of the Commission’s process do you find to be objectionable and why?

Answer:

First, while the process has taken “as much as 13 to 17 months” on occasion, it should be noted that more often than not, the postal unions and the Postal Service have reached voluntary agreements within the standard negotiating period of three months. Second, there are good reasons that negotiations sometimes take a longer period of time. Our current contract provides a good example. Negotiations for a new agreement were suspended following the anthrax attacks in the fall of 2001, but an agreement was successfully negotiated nonetheless in the spring of 2002 – several months after the previous contract expired. During the hiatus, the parties focused their attention on developing health and safety protocols to protect postal employees from bio-hazards. Despite delay, the most recent round of negotiations was a resounding success.

In cases where a voluntary agreement cannot be reached, the current law’s impasse procedures give the parties the flexibility to fashion procedures and timetables appropriate to prevailing conditions. Generally, the timetable reflects the parties’ agreed-upon pace and the realities of the schedules of the nation’s most highly respected arbitrators, academics and consultants. The longest arbitration on record involved 28 days of hearings, but most arbitrations have involved far fewer days. The flexibility to take the time both parties need to present their cases is a positive feature of the law, not a negative feature. The artificially constrained schedule proposed by the Commission would be unrealistic, unenforceable and counterproductive to the needs of the parties.

NALC objects to mandatory mediation-arbitration. It should be an option, not a requirement. Mediation works best when the parties are free to explore all options with

the mediator – a freedom that does not exist when the parties know that the mediator may ultimately become a neutral arbitrator.

Finally, NALC opposes the elimination of tripartite arbitration. Advocate arbitrators provide institutional memory, practical insight and valuable knowledge to neutral arbitrators. Allowing advocates to influence a neutral arbitrator's award helps avoid mistakes and limits unnecessary damage to postal labor relations. It also serves to give the process accountability for both workers and management – which helps both parties accept the legitimacy of interest arbitration awards.

Question 2:

One longstanding postal issue has been the need to improve labor-management relations within the Postal Service. At one point, there was a backlog of 146,000 pending or appeal labor grievances.

What can the four worker's Unions do to encourage and facilitate greater cooperation between postal management and labor union? What steps would you recommend to reduce the number of labor grievances – future grievances and the backlog?

What do you think about the Commission's recommendation to institute mandatory mediation at the local level and use neutral third parties as mediators?

Answer:

First, it is important to note that considerable progress has been made in recent years. NALC has cut the backlog of grievances from 28,000 in 1998 to less than 4,000 today. The other unions have also substantially reduced their backlogs.

At the NALC we have worked hard in recent years with the USPS to address labor-management problems that have confronted us for decades. We have developed a new streamlined grievance procedure and produced a joint contract administration manual, which gives guidance to our local representatives when disputes arise. NALC paid half the cost to put those manuals in every post office in America where letter carriers work. We update the manual once each year incorporating changes resulting from new national arbitration awards. We have also developed a process to both identify "problem" work sites where labor-management relations have broken down and to intervene to repair these relations. The new "intervention process" has just been rolled out in five pilot cities. The early results are very encouraging. Two cities where labor problems have plagued the parties for years, Cincinnati and Houston, have made significant progress.

NALC is not against the use of mediation, but we believe it only works when both parties have an interest in making it work. To mandate its use would be counterproductive if the local parties are not entirely committed to the process. In such a circumstance, outside

**mandates regarding dispute resolution mechanisms will only interfere with the parties' ability and flexibility to develop specific programs to meet specific challenges.**

Question 3:

While the Commission clearly favored that all individual components of a Postal employee's "total compensation" (which would include wages, holidays, leave, insurance, pensions, medical and hospital benefits) should be subject to the collective bargaining process, as is the case in the private sector, the Commission recommended that the newly-created Postal Regulatory Board should decide the appropriate private-sector comparison for Postal employee compensation.

What's wrong with this proposal?

Answer:

**Injecting a regulator into the collective bargaining process by giving it the role of defining comparability would politicize the issue of postal wages and create a regulatory conflict of interest – the same body regulating postal prices would be given a role in regulating postal wages. No regulator in any other industry has been given this extraordinary power.**

**Involving regulators in the issue of comparability would also undermine good faith collective bargaining. What would stop either party from attempting to obtain from the regulator what they could not achieve at the bargaining table? Who would police attempts to influence this board?**

**Collective bargaining means "collective" bargaining between an employer and a union. Our laws establish a process (see, e.g., the NLRA); they do not dictate a result. The imposition of a regulatory agency's substantive decision on such a critical element of collective bargaining – the issue of comparability -- would effectively replace collective bargaining with wage setting by the government. NALC believes this is unacceptable.**



**Post-Hearing Questions for the Record  
Submitted to William Young  
From Senator Thomas Carper**

**“Preserving a Strong United States Postal Service: Workforce Issues”**

**February 24, 2004.**

Collective Bargaining

Question 1:

It is my understanding that the collective bargaining process laid out in current law is rarely used. In most cases, a union and the Postal Service usually agree to use another process with different timeliness and different procedures. Either side, however, could insist that the statutory process be used. Are there any changes to this process you would like to see made in order to protect your members in the event that the Postal Service refuses to stray from it?

Answer:

**The fact that the exact process outlined in the law has not been used does not mean that changes are necessary. The parties typically use the framework in the law as a starting point to craft specific procedures for the circumstances prevailing at any given time.**

**NALC believes that any changes in the collective bargaining process should be made and agreed upon by the parties themselves and not mandated by Congress in law. We have accumulated over 30 years of experience. Both parties are far more sophisticated today than they were 30 years ago. We better understand the risks of not reaching an agreement and have worked with each other in many different areas. Our experience has led to increased respect and confidence in our ability to reach a fair result for both parties. Any legislated changes would only threaten that progress, especially if either side feels disadvantaged by those changes.**

**Thus, there are no changes in the process established by the Postal Reorganization Act which are needed to “protect” employees in the event the USPS were to insist upon a strict application of that process.**

Question 2:

As you know, contract negotiations frequently take longer to complete than was envisioned in the Postal Reorganization Act. The “default” bargaining process laid out in that bill should take no more than 135 days from start to finish if both side adhere to the letter of the law. How frequently do negotiations go longer than that? What are the reasons for the delays? Can one party usually be blamed for the delays?

Answer:

**In more than half the contracts reached over the past 30 years, the parties have voluntarily negotiated them in approximately 90 days. In those cases that have required the use of impasse procedures, the parties have mutually agreed to use more than the 135 days envisioned by the "default" process. However, the law encourages such mutual agreements and has served the parties well. Since the time taken to resolve impasses has, in most cases, been agreed to by the parties there is no blame to ascribe.**

**Please refer to NALC's response to Senator Lautenberg's question above. As you will see, neither party is responsible for how long the process takes. Normally it is the neutral arbitrator's schedule, or the full schedules of expert witnesses, that causes most delays.**

Question 3:

As I read the Commission's recommended changes to the collective bargaining process, I fear that they could force more contract disputes into arbitration. Do you think that you will be able to resolve as many disputes before arbitration if we were to adopt the Commission's recommendations? What would happen if more contract disputes were arbitrated?

Answer:

**It is difficult to forecast the impact of the Commission's recommendations. However, if the proposal to place new topics such as pensions and health benefits on the bargaining table were adopted, the likelihood of impasses would certainly rise in the near term as issues long resolved by Congress would have to be negotiated.**

**The recommendations would: replace free collective bargaining with wage setting by a regulator; force the parties to negotiate over key elements of government-wide benefits (pensions, FEHBP); and force the parties to use dispute resolution mechanisms not of their choosing within an unrealistic time-frame. Will these recommendations cause result in greater use of interest arbitration? Almost certainly that is the case. But even worse, they would destabilize postal labor relations with quite unpredictable consequences.**

Question 4:

As you know, the President's postal commission recommends making a fuller range of postal employees' benefits eligible for collective bargaining. Senator Collins and I have sent a letter to the Postal Service and OPM requesting additional information about how this would work and what it would mean for your members and other federal employees. What kinds of benefits can you negotiate over in collective bargaining now? How frequently have benefits been an issue in contract disputes?

Answer:

The parties negotiate the particulars of a full range of benefits, including health insurance, annual leave, sick leave, uniforms, etc. The main exception is retirement benefits. For solid public policy reasons, postal employees are covered by the same pension plans that cover all other federal employees. Although the parties limit their negotiations over health insurance to the employee and employer shares of premiums for health plans offered through the Federal Employees' Health Benefit Program, the NALC and the other postal unions negotiate with Office of Personnel Management over the scope and content of union-sponsored FEHBP plans that are offered to their members.

Every time the NALC has had to resort to interest arbitration, benefit or working condition issues have been subjects in dispute. Even when wages have been the key issue in dispute, the benefit roll-up factor is a major issue for arbitrators.

Question 5:

I think there is an impression that the current collective bargaining process benefits the unions. A lot of people believe that you always make out pretty well. In this case? Have there been times where your members wound up giving up a lot during negotiations?

Answer:

The impression is mistaken. Both the unions and postal management have "won" and "lost" at arbitration. Although NALC won a pay upgrade for its members in 1999, the Postal Service has achieved significant wage restraint, lower health benefit contributions and increased rights to hire temporary workers over the years. Both sides have come to appreciate the benefits and risks of resorting to impasse procedures and have gained a better understanding of the limits of interest arbitration. Going to arbitration is always a gamble, and both parties have had to learn that lesson the hard way.

Over the years, postal employees have suffered significant losses in the collective bargaining process (e.g., the loss of full "no lay-off" protection; increased employee share of health insurance; creation of lower tier, "contingent" workforce).

Question 6:

As you know, the President's commission recommends that the Postal Service develop a "pay-for-performance" system for all employees, from supervisors to bargaining unit employees. What kinds of "pay-for-performance" systems has the Postal Service attempted to use before? Have they been a good use of the Postal Service's resources?

Answer:

The pay for performance systems that have been used by the Postal Service have produced unfavorable results for employees. Managers gave up cost-of-living raises and real wage increases for bonuses under the Economic Value Added (EVA) program. Promised EVA bonuses either did not materialize or, once paid, caused considerable political controversy. The problems associated with EVA proved to be insurmountable and the Postal Service recently abandoned it and is in the process of replacing it with another scheme.

NALC negotiated incentive pay into a contract in 1981, but not a single penny was paid as a result from that provision. Letter carriers are proud of the increased productivity that we have produced over the last 30 years. The USPS is the most efficient and productive postal service in the world and that is in part a direct result of the hard work and dedication of our members. We don't need bonuses to motivate our members. They connect with the public that they serve and it is that connection that motivates service levels and pride.

Question 7:

Productivity data provided by the Postal Rate Commission shows that the Postal Service's larger Processing and Distribution Centers, particularly those in urban areas, are oftentimes less efficient than small facilities. How much of this do you think is attributable to the fact that many large, urban processing facilities are older? How much of it do you think is attributable to the fact that postal wages are probably not as competitive in urban areas? Would your members support an area wage system that allowed the Postal Service to pay workers in high-cost parts of the country higher wages?

Answer:

It is true that productivity naturally varies among facilities, but I would note that overall postal productivity has been rising strongly in recent years. As Deputy Postmaster General John Nolan recently told a conference on European postal services: "Our productivity has increased more in the past four years than in the prior 28 years combined."

As far as specific issues related to Processing and Distribution Centers, we recommend you consult with the APWU and the NPMHU.

With respect to an "area wage system," NALC Conventions over the past decade have repeatedly debated this issue at length and uniformly rejected the concept of "area wages." NALC Conventions consist of 9,000 delegates elected by secret ballot from some 2,000 local branches, nationwide.

**Post-Hearing Questions for the Record  
Submitted to Dale Holton  
From Senator Frank Lautenberg**

**"Preserving a Strong United States Postal Service: Workforce Issues"**

**February 24, 2004**

1. The Postal Commission found that compensation negotiations using the existing collective bargaining process have taken as much as 13 to 17 months.  
  
In its Report, the Commission has proposed a "mediation and arbitration process" that would take a total of 90 days.  
  
What are the specific features of the Commission's process do you find to be objectionable and why?  
  
A. We find the recommended process not so objectionable as it is unrealistic. It took us 7 months to be able to schedule our arbitrator for 21 hearing days. His schedule was that busy. The timeframe is unrealistic. The proposal for 3 professional neutrals would leave the panel with no advocates, and further seriously encumber the timeframe. The proposal would mandate procedures the parties already have the flexibility to adopt.
2. One longstanding postal issue has been the need to improve labor-management relations within the Postal Service. At one point, there was a backlog of 146,000 pending or appealed labor grievances.  
  
What can the four workers' Unions do to encourage and facilitate greater cooperation between postal management and labor union? What steps would you recommend to reduce the number of labor grievances – future grievances and the backlog?  
  
What do you think about the Commission's recommendation to institute mandatory mediation at the local level and use neutral third parties as mediators?  
  
A. NRLCA has a minimal number of grievances compared to the other crafts. Local level is step one; State level is step two; Step three has a designee of USPS and an NRLCA grievance specialist arguing the case. We have 1052 Step 3 cases. Those cases that are not resolved go to area arbitration and are argued by opposing counsels, we have 170 area arbitration cases.  
More grievance resolution would occur if lower level designees were empowered to actually resolve the cases. We believe managers would be less likely to violate the labor agreement if more of them were better educated about the NRLCA-USPS contract.  
  
We would welcome a Joint Contract Administration Manual (JCAM) like NALC & USPS have established. The Presidential Commission also recommended JCAM be

established between the USPS and other unions. If that were to occur there would be no need for third party mediators.

3. While the Commission clearly favored that all individual components of a Postal employee's "total compensation" (which would include wages, holiday, leave, insurance, pensions, medical and hospital benefits) should be subject to the collective bargaining process, as is the case in the private sector, the Commission recommended that the newly-created Postal Regulatory Board should decide the appropriate private-sector comparison for Postal employee compensation.

What's wrong with this proposal?

- A. The difference in putting all benefits on the table was explained very succinctly by former Director of the Federal Mediation Conciliation Service (FMCS) Hon. John Calhoun Wells. Wells said, "If the USPS is a private company then by all means all compensation should be put on the bargaining table. If, however, the USPS is a government entity with a governmental mission, then the employees should be treated like other government employees and remain in the federal pension and health benefit system." Additionally, one out of every three federal employees is a postal employee. Consequently, removing postal employees from the pension and health benefit system could have a very serious adverse impact on those programs, as OPM stated in their testimony. The cost of employee benefits is taken into account in the collective bargaining process. Many of the Postal Service's benefits are directly tied to payroll levels (for example, pension costs) and the so-called "roll-up factor," the added cost of benefits resulting from pay changes. Because of this, benefits are never far from the minds of the negotiator (or interest arbitrators). We currently do directly negotiate the most significant benefit cost not tied to wages—namely, employee health benefits. The parties negotiate the share of premiums paid by employees and the postal service. No federal regulatory agency decides the compensation of employees in an industry the regulator has jurisdiction over. The issue of appropriate private sector comparison of compensation is an issue for Labor & Management. This issue is discussed in every collective bargaining —Contract negotiation and interest arbitration.

**Post-Hearing Questions for the Record  
Submitted to Dale Holton  
From Senator Thomas Carper**

**"Preserving a Strong United States Postal Service: Workforce Issues"**

**February 24, 2004**

Collective Bargaining

1. It is my understanding that the collective bargaining process laid out in current law is rarely used. In most cases, a union and the Postal Service usually agree to use another process with different timelines and different procedures. Either side, however, could insist that the statutory process be used. Are there any changes to this process you would like to see made in order to protect your members in the event that the Postal Service refuses to stray from it?
  
- A. Current law protects the unions if USPS doesn't agree with the union's proposal, but leaves flexibility to mutually agree to procedures. The current law could be improved by eliminating fact-finding and substitute mediation-arbitration as long as there is no mandate to use the same mediator as arbitrator and both parties are involved in the selection process.
  
2. As you know, contract negotiations frequently take longer to complete than was envisioned in the Postal Reorganization Act. The "default" bargaining process laid out in that bill should take no more than 135 days from start to finish if both side adhere to the letter of the law. How frequently do negotiations go longer than that? What are the reasons for the delays? Can one party usually be blamed for the delays?
  
- A. The negotiations almost always take longer than provided by law. The reason is mainly due to the scheduling of the arbitrators. Professional Arbitrators are very busy and extremely difficult to schedule. Often times during periods between actual arbitration hearing days the parties continue working towards settling issues in dispute. Blame can generally be placed on the third party arbitrator, not a wise thing to say when they are hearing your contract dispute.
  
3. As I read the commission's recommend changes to the collective bargaining process, I fear that they could force more contract disputes into arbitration. Do you think that you will be able to resolve as many disputes before arbitration if we were to adopt the commission's recommendations? What would happen if more contract disputes were arbitrated?
  
- A. If all of the Presidential Commission Report recommendations on the workforce were adopted NRLCA is certain more disputes would go to binding arbitration. More issues would have a greater probability of no resolution. All the arbitrators that testified stated

that their technique was to narrow the issues in dispute, not expand them. They stated an arbitrator could never, in the time allotted, learn enough to properly render educated judgment on a multiplicity of issues.

If more contract disputes were arbitrated then certainly relationship degradation would follow. Hon. John Calhoun Wells stated when he took over FMCS in 1994, the Postal labor – management relations were vitriolic. We absolutely do not want to retreat to those days again.

4. As you know, the President's postal commission recommends making a fuller range of postal employees' benefits eligible for collective bargaining. Senator Collins and I have sent a letter to the Postal Service and OPM requesting additional information about how this would work and what it would mean for your members and other federal employees. What kinds of benefits can you negotiate over in collective bargaining now? How frequently have benefits been an issue in contract disputes?
- A. Currently we negotiate over wages, working conditions, leave & sick days, and the percentage of contribution USPS makes toward employees health insurance benefits. Many of the Postal Services' benefits are directly tied to payroll levels (for example, pension costs) and the so-called "benefit roll-up factor," the added cost of benefits resulting from pay changes, which is never far from the minds of the negotiators (or interest arbitrators). The parties already directly negotiate the most significant benefit cost not tied to wage levels; namely health benefits. Specifically, the parties negotiate the share of premiums paid by employees and the postal service.
5. I think there is an impression that the current collective bargaining process benefits the unions. A lot of people believe that you always make out pretty well. Is this the case? Have there been times where your members wound up giving up a lot during negotiations?
- A. Not so!!! In the last round of binding arbitration my members lost according to the Postal Services own figures \$324,000,000 per year due to the arbitrators award. That means carriers lost on average \$4600 per route per year.



1. As you know, the President's commission recommends that the Postal Service develop a "pay-for-performance" system for all employees, from supervisors to bargaining unit employees. What kinds of "pay-for-performance" systems has the Postal Service attempted to use before? Have they been a good use of the Postal Service's resources?
  - A. The Postal Service established the SET program. It tied bonuses to rural letter carriers by district where the carrier worked. If the district met the goal all carriers received a bonus. It was a shotgun effect.  
We have a current MOU (memorandum of understanding) attached to the USPS/NRLCA National agreement that has been included since 1995 agreeing that both parties will work toward a pay for performance system. There is no system under discussion.
2. Productivity data provided by the Postal Rate Commission shows that the Postal Service's larger Processing and Distribution Centers, particularly those in urban areas, are oftentimes less efficient than smaller facilities. How much of this do you think is attributable to the fact that many large, urban processing facilities are older? How much of it do you think is attributable to the fact that postal wages are probably not as competitive in urban areas? Would your members support an area wage system that allowed the Postal Service to pay workers in high-cost parts of the country higher wages?

Post Hearing Questions for the Record  
Submitted to William Burrus  
From Senator Daniel K. Akaka

1. You suggest that rather than implementing sweeping changes to current law, that you would eliminate what you have termed excessive workshare discounts and apply more appropriate pricing in the future. What would constitute appropriate pricing, and how would you set rates?

**Summary**

When setting the size of workshare discounts, the rate-setting process should keep three basic objectives in mind:

First, discounts should be set at levels that do not increase the cost burdens on mailers who do not workshare.

Second, discounts should be set not only to provide fair recognition for work that mailers perform, but also to discourage producers that are less efficient than the Postal Service from processing and transporting the mail.

Third, discounts should not contribute to revenue shortfalls.

Setting discounts no higher than costs avoided by the Postal Service achieves all these goals at once.

The efficient component pricing methodology used by the USPS to determine the size of workshare discounts, and endorsed by the PRC, is an appropriate concept to use for this purpose, *provided vague rationales are not used to justify exceeding the calculated levels of the avoided costs*. The calculation of costs associated with avoided activities could be made more accurate if improved cost-measurement systems were implemented. Such systems could track costs more directly by taking advantage of the information flowing from the Postal Service's investment in automated equipment and information technology (IT).

The current rate-setting system is time consuming, and efforts should be made to quicken the process without losing its benefits, perhaps by relying more on after-the-fact reviews.

Whatever rate-setting process is used, discounts must be periodically reviewed to ensure continued alignment with the costs avoided. If discounts are strongly tied to costs avoided, it would be straightforward to provide the Postal Service with flexibility to reduce discounts whenever major cost efficiencies take place rather than waiting for an omnibus rate case. As operations are improved and become more efficient, the costs associated with them decline and the discounts provided for avoiding those costs through worksharing should be reduced accordingly. Also, as operations and processes change, some discounts outlive their usefulness and

should be discontinued. The Postal Service should not be permitted to propose discounts that exceed avoided costs, or to continue discounts that have become excessive or outlived their usefulness.

As the mix of mail changes, the classification of mail services and the sharing of the network costs among classes of mail will need to be re-evaluated. The basis for differences between current classifications should be revisited, and a determination made about the value of those differences. Standard A volume has overtaken First Class, and consumers can now open their mailboxes and find nearly identical letters that have been sorted and delivered at rates ranging from 6.3 cents to 37 cents.

The original justifications for the large differences in rates between First Class and the different types of Standard A mail have eroded over time. Improved processing has narrowed the difference in delivery times. The restrictions on information that can be mailed using Standard mail rates have been relaxed, and Standard A has come to look more and more like First-Class mail.

As a result, the rationale for First-Class mail paying the freight for institutional costs has eroded. While there still are some differences in the services afforded to First-Class mail, the justifications for differences in price that can be as much as 30 cents will need to be re-evaluated.

#### **More Detailed Discussion**

A more detailed discussion of the major points discussed in the summary section is provided below.

- A) Worksharing discounts should not drive up the costs of non-workshared mail or contribute to a reduction in institutional cost coverage.
- 1) When discounts exceed costs avoided, the mail receiving those discounts provides a reduced contribution to overhead. This requires additional cost coverage from the mailers who cannot or do not use the discounts. It can also deprive the Postal Service of the revenues it needs for upkeep and improvement of its networks.
  - 2) The use of benchmark mail pieces provides the most accurate base from which to measure the costs that are actually avoided due to the worksharing activities. Benchmark mail pieces have characteristics (and cost drivers) that are most similar to those of the discounted piece of mail. The benchmark pieces are generally the type of pieces a workshare mailer would send if the workshare discount were removed.
  - 3) Using benchmarks reduces the chance of other cost differences, such as those associated with basic cost averaging, being inappropriately included in

the discount. Workshare discounts should not be used to mask cost de-averaging.

- 4) The Postal Service and the PRC often give rather vague rationales for providing discounts larger than the costs avoided. In R2001-1, the most recent omnibus rate case, the Postal Service witness on First-Class rate design justified setting discounts at approximately 120 percent of measured costs avoided with the following: "A departure from the incentives already established may jeopardize the gains that reduced overall operating costs for mailers."<sup>1</sup> However, the Postal Service provided no studies or other documentation to support this unlikely possibility.
  - 5) In other R2001-1 testimony, a Postal Service witness said that the percentage change in workshare mailers' rates should be a factor permitting discounts larger than avoided costs.<sup>2</sup> Discounted rates are lower than undiscounted rates. A 1 ¢ change in all rates will comprise a relatively larger percentage increase for workshared mail compared with the percentage change in the undiscounted rates. However, workshare mailers will still be receiving discounts commensurate with the savings the Postal Service can achieve due to those activities. Costs, not the percentage changes in rates, should determine the size of the discounts.
  - 6) As Postal operations are improved and become more efficient, the costs associated with them decline and the discounts should be reduced accordingly. Over time some discounts outlive their usefulness and should be discontinued. For example, non-automation presort discounts have been continued at levels higher than costs avoided for several rate cases. This does not make economic sense for the health of the Postal Service or for the rate payers who are not using this discount.
- B) More accurate and transparent cost-measurement systems, along with improved methods for allocating costs to different mail services, would improve the calculation of the costs associated with activities that may be avoided by workshared mail.
- 1) Current cost pools used by the USPS and PRC in rate cases are large, and the broad mixture of mail in them is not well suited for accurately calculating costs avoided. One example is the current benchmark for First-Class letter mail, "bulk metered mail letters." The costs associated with this benchmark – used as the base for calculating the size of the discounts for First-Class mail – are not measured directly, but are inferred from the costs associated with a more aggregated pool of mail that includes small packages and bundles that

<sup>1</sup> R2001-1, USPS Testimony T-29, p. 11.

<sup>2</sup> R2001-1, USPS Testimony SRT-1, p. 10.

are more costly to handle. This overstates the manual operations avoided by First-Class workshared letters.

- 2) The Postal Service's automated equipment and IT investments could also be used to provide more information on costs for specific types of mail. Using this equipment for more direct measurement of costs should be made more of a priority.
  - 3) Accurate and transparent cost measurement is important; however, complete cost attribution is not possible for an organization providing a broad array of services through a shared network. While everyone should be wary of setting arbitrary goals on the percent of costs that the Postal Service is expected to attribute to specific services, it is possible to do a better job of measuring costs directly.
- C) The current rate-setting system is time consuming and efforts should be made to quicken the process without losing its benefits.
- 1) The strength of the current system is that it allows the Postal Service's proposals to be broadly examined by a wide array of users and competitors and provides an opportunity for those participants to have ample say on rate issues that may impact them.
  - 2) Providing the Postal Service with more latitude for putting rates into effect with an after-the-fact review may be the best method of maintaining the strengths of the current system and providing more flexibility for the Postal Service.
  - 3) One aspect of that flexibility is that the Postal Service should be able to change discounts whenever major cost-saving initiatives occur, rather than waiting for an omnibus rate proceeding. If improvements in the Postal Service's efficiencies result in reductions to the costs avoided by certain processes, the Postal Service should have the opportunity to immediately reduce the discounts accordingly. A mechanism should be maintained whereby specific discount levels could be challenged if it is felt that they exceed costs avoided, or if a discount has outlived its usefulness.

**Answers of William Burrus  
To Post-Hearing Questions for the Record  
From Senator Frank Lautenberg**

1. The Postal Commission found that compensation negotiations using the existing collective bargaining process have taken as much as 13 to 17 months.

In its Report, the Commission has proposed a "mediation and arbitration process" that would take a total of 90 days.

What are the specific features of the Commission's process do you find to be objectionable and why?

1. To place our discussion of dispute resolution procedures in context, and as a commentary on the success of the overall process, I want to begin this answer with some statistics on successful bargaining. Since 1970, the APWU and the Postal Service have had 85 contract negotiations, and we have reached 61 voluntary agreements. An example is provided by our present two-year contract extension.

The present fact-finding and arbitration procedures are designed to take a minimum of 135 days from the expiration of the collective bargaining agreement. The process for appointing an arbitration panel is triggered if there is no new agreement 90 days after the expiration of the old agreement. The selection process is somewhat complicated and no rigid time limit is placed on that process. The arbitration panel is required to give the parties a full and fair hearing and is supposed to issue its decision 45 days after its appointment. In practice, this procedure takes substantially longer than 135 days.

In some instances, the dispute-resolution process has been concluded within the timeframe contemplated in the PRA; but more often it has taken longer. Often the parties have been unable to secure an adequate number of hearing dates and executive sessions from the neutral arbitrator to provide a full and fair hearing and conclude within 45 days after the appointment of the panel. Accordingly, the time limits are often extended by mutual agreement of the parties to meet the timetable requested by the neutral. We view this sort of delay as unavoidable given the importance of selecting an able and experienced neutral arbitrator. The parties have always worked through problems concerning the availability of qualified arbitrators and expert witnesses -- both sides recognize that having qualified experienced arbitrators is crucial to the success of the process. A legislative change is not needed. Certainly, no hard and fast deadline should be set. Based on this experience -- and also on our view that having qualified experienced arbitrators is crucial to the success of the process -- we believe 90 day limits are not realistic. We would support a change that would substitute mediation for factfinding, because we consider factfinding unnecessary and potentially counterproductive. However, we would oppose a requirement that the mediator be the

neutral arbitrator when arbitration is necessary, because such a requirement would make effective mediation impossible.

2. One longstanding postal issue has been the need to improve labor-management relations within the Postal Service. At one point, there was a backlog of 146,000 pending or appealed labor grievances.

What can the four workers' Unions do to encourage and facilitate greater cooperation between postal management and labor union? What steps would you recommend to reduce the number of labor grievances – future grievances and the backlog?

What do you think about the Commission's recommendation to institute mandatory mediation at the local level and use neutral third parties as mediators?

2. Postal Managers and supervisors are rewarded for good production, timeliness, and accuracies; but they are not rewarded for contract compliance or good labor relations. In my opinion, the most important single step that could be taken to improve labor relations in the Postal Service would be to make managers and supervisors responsible and accountable for contract compliance and labor relations. Unions are most often in a reactive posture when it comes to day-to-day labor relations. We find ourselves responding to management's failure to follow the requirements of the contract or failure to treat employees with dignity and respect. We have a duty as Union officers, and under the National Labor Relations Act, to provide fair representation to everyone in the bargaining unit. When the employer violates the contract, we file grievances.

Since PRA bargaining began, the parties have agreed on many programs to deal with grievance backlogs, including the establishment of mediation procedures. Indeed, we have negotiated mediation procedures under our present contract. These processes have been generally successful, and our grievance backlog has been cut by approximately 70 percent. Although the number of grievances is still large, it is important to bear in mind that a "backlog" of 30,000 grievances is not truly a backlog in that the parties regularly resolve that number of grievances in a 30-day period. We recently reduced our grievance backlog from 146,000 grievances to 50,000 grievances, and we expect to further reduce it to an acceptable 30,000. The parties also have agreed on several ways of expediting the resolution of issues that are particularly important or that are generating multiple grievances. These procedures have helped to reduce labor tensions.

We see no point in enacting statutory provisions that would mandate procedures to resolve disputes. The parties have shown a willingness to try various procedures by mutual agreement. Legislation mandating certain procedures would inhibit or prevent the parties from using other standard or alternative dispute resolution procedures.

3. While the Commission clearly favored that all individual components of a Postal employee's "total compensation" (which would include wages, holiday, leave, insurance, pensions, medical and hospital benefits) should be subject to the collective bargaining process, as is the case in the private sector, the Commission recommended that the newly-created Postal Regulatory Board should decide the appropriate private-sector comparison for Postal employee compensation.

What's wrong with this proposal?

3. We strongly oppose the Commission's recommendations concerning establishment of a Postal Regulatory Board to determine appropriate private-sector comparisons. Action by such a Board would be a substitute for collective bargaining. It would deprive postal unions of the opportunity to engage in meaningful bargaining over wages and other compensation. When the PRA was enacted, Congress explicitly stated that it intended the parties to bargain over comparability, and to develop their own comparisons and working definitions of relevant labor markets as part of the wage and compensation setting process. That is precisely what has happened over the years. And, where the parties have not been able to agree on appropriate comparisons, the matter has been placed before expert neutral arbitrators. In every case, the parties' neutral arbitrators have been experts with experience in labor economics and collective bargaining who were acceptable to both sides.

The Commission now proposes to replace this system with a set of PRB appointees who are likely to reflect the political orientation of the President who selects them. Under such circumstances, the findings made by such a body will not be viewed as credible by the employees and managers who must live with them. Such a process would bear far more resemblance to the pre-PRA political and legislative process that Congress discarded, rather than private-sector bargaining.



**Answers of William Burrus  
To Post-Hearing Questions for the Record  
From Senator Thomas Carper**

Collective Bargaining

1. It is my understanding that the collective bargaining process laid out in current law is rarely used. In most cases, a union and the Postal Service usually agree to use another process with different timelines and different procedures. Either side, however, could insist that the statutory process be used. Are there any changes to this process you would like to see made in order to protect your members in the event that the Postal Service refuses to stray from it?

1. Before addressing this question, I would like to emphasize that postal negotiations more often result in voluntary agreement rather than formal dispute resolution. A substantial majority of the agreements between the APWU and the Postal Service have been voluntarily negotiated. Since 1970, the Postal Service has had 85 contract negotiations with unions representing postal employees, and the parties have reached 61 voluntary agreements. An example is provided by our present two-year contract extension.

As you have observed, when the formal dispute resolution procedures under the PRA are invoked, the parties usually agree to modify the statutory procedures and to extend the statutory time limits. When time limits are extended, this is often because it is necessary to accommodate the schedules of the prominent and busy people selected to serve as the parties' neutral arbitrators. Factfinding is rarely used. The APWU and the Postal Service have almost always agreed to waive fact finding in favor of using the time for mediation or continued bargaining. In our view, the statutory factfinding process is potentially counterproductive because it wastes the parties' time and results in adversary relations between the parties rather than encouraging negotiations. For this reason, we would support a change that would substitute mediation for factfinding. However, we would oppose a requirement that the mediator be the neutral arbitrator when arbitration is necessary, because such a requirement would make it impossible for the mediator to be effective.

2. As you know, contract negotiations frequently take longer to complete than was envisioned in the Postal Reorganization Act. The "default" bargaining process laid out in that bill should take no more than 135 days from start to finish if both side adhere to the letter of the law. How frequently do negotiations go longer than that? What are the reasons for the delays? Can one party usually be blamed for the delays?

2. The present factfinding and arbitration procedures are designed to take a minimum of 135 days from the expiration of the collective bargaining agreement. The process for appointing an arbitration panel is triggered if there is no new agreement 90 days after the expiration of the old agreement. The selection process is somewhat complicated and no rigid time limit is placed on that process. The arbitration panel is required to give the parties a full and fair hearing and is supposed to issue its decision 45 days after its appointment. In practice, this procedure takes substantially longer than 135 days.

In some instances, the dispute-resolution process has been concluded within the timeframe contemplated in the PRA; but more often it has taken longer. Selection of the neutral arbitrator is often time-consuming because of the need to select a highly qualified individual. Often the parties have been unable to secure an adequate number of hearing dates and executive sessions from the neutral arbitrator to provide a full and fair hearing and conclude within 45 days after the appointment of the panel. Accordingly, the time limits are often extended by mutual agreement of the parties to meet the timetable requested by the neutral. We view this sort of delay as unavoidable given the importance of selecting an able and experienced neutral arbitrator. Our neutral arbitrators have included such people as Clark Kerr, a renowned labor economist and arbitrator and former Chancellor of the University of California at Berkeley, and several former officers of the National Academy of Arbitrators. Invariably, the person selected is someone who has a busy schedule.

The parties have always worked cooperatively concerning the availability of qualified arbitrators and expert witnesses -- both sides recognize that having qualified, experienced arbitrators and expert assistance is crucial to the success of the process. A legislative change is not needed. Certainly, no hard-and-fast deadline should be set.

3. As I read the commission's recommended changes to the collective bargaining process, I fear that they could force more contract disputes into arbitration. Do you think that you will be able to resolve as many disputes before arbitration if we were to adopt the commission's recommendations? What would happen if more contract disputes were arbitrated?

3. The Commission's recommendations would make one of the numerous alternative methods of dispute resolution the mandatory method. This would make negotiated and ratified agreements far more difficult by depriving the parties of needed flexibility in finding a way to resolve their differences.

The parties would always prefer to reach a bilateral, voluntary agreement rather than an agreement imposed by a third party. Nevertheless, we consider interest arbitration to be a necessary part of the collective bargaining process. Interest arbitration using a reputable and qualified neutral arbitrator has resulted in credible decisions that have contributed to labor peace in the Postal Service.

4. As you know, the President's postal commission recommends making a fuller range of postal employees' benefits eligible for collective bargaining. Senator Collins and I have sent a letter to the Postal Service and OPM requesting additional information about how this would work and what it would mean for your members and other federal employees. What kinds of benefits can you negotiate over in collective bargaining now? How frequently have benefits been an issue in contract disputes?

4. Health care is the most frequently disputed benefit, particularly the allocation of the employer and employee shares of the cost. Virtually all other benefits are also the subject of negotiations, except retirement and retiree medical, which are set by statutes for all federal employees. In one or another interest-arbitration, proposals to change each of the negotiable benefits have been presented. The cost of fringe benefits and their comparison to private-sector fringe benefits is always the subject of presentations by the parties in negotiations and in interest arbitration.

5. I think there is an impression that the current collective bargaining process benefits the unions. A lot of people believe that you always make out pretty well. Is this the case? Have there been times where your members wound up giving up a lot during negotiations?

5. Collective bargaining has benefited postal workers by ensuring that they have fair and adequate wages and fringe benefits, and by giving them protection from arbitrary or unfair employer actions. These benefits and protections are often denied to employees who do not have union representation. Nevertheless, it is not correct to say that we "always make out pretty well" in the collective bargaining process. There have been interest arbitration decisions that have imposed significant concessions on postal employees that have been difficult to accept. Just as there is always give and take in bargaining, interest arbitration cuts both ways.

Since Congress acted to correct inadequate postal wages by enacting wage increases as part of the Postal Reorganization Act of 1970, real postal wages have not increased significantly as measured by the CPI. Likewise, since the beginning of the Employment Cost Index (ECI) in 1975, postal wages have increased less than the ECI for wages in the private sector. These facts, which are shown in the enclosed graphs of postal compensation changes, demonstrate the success of the collective bargaining system under present law.

#### Pay

1. As you know, the President's commission recommends that the Postal Service develop a "pay-for-performance" system for all employees, from supervisors to bargaining unit employees. What kinds of "pay-for-

performance" systems has the Postal Service attempted to use before? Have they been a good use of the Postal Service's resources?

1. Postal employees perform a wide variety of tasks in multiple complex settings. Postal employees' duties also require a commitment to the universal service mission of the Postal Service, which imposes unique obligations on postal workers. Because of the nature of postal operations, there is no direct correlation between the level of effort expended by individual employees performing a wide variety of tasks and any so-called performance measure. Several collectively-bargained pay-for-performance systems have been agreed to by various unions and the USPS since 1970, but all have proven to be unpopular and unsuccessful; all have been abandoned.

In 1981, the APWU, NALC, and the USPS agreed to a "productivity bonus" system. It failed to pay anything, proved unpopular, and was abandoned. The "Striving for Excellence Together (SET)" incentive-pay program was offered to all of the unions during the 1990 round of bargaining. The NPMHU and NRLCA accepted; the APWU and the NALC declined. Even though there were occasional SET payments, the program was eventually dropped. For more than 30 years, the Postal Service has had a program of incentives offering employee recognition, cash payments, and quality step increases to reward employees for "superior" performance. The program continues, but such awards are uncommon.

On the management side, the Postal Service's incentive program had the unintended consequence of causing managers to mis-allocate resources in an attempt to meet the incentive criteria. These programs have not been a good use of the Postal Service's resources.

2. Productivity data provided by the Postal Rate Commission shows that the Postal Service's larger Processing and Distribution Centers, particularly those in urban areas, are oftentimes less efficient than smaller facilities. How much of this do you think is attributable to the fact that many large, urban processing facilities are older? How much of it do you think is attributable to the fact that postal wages are probably not as competitive in urban areas? Would your members support an area wage system that allowed the Postal Service to pay workers in high-cost parts of the country higher wages?

2. As automation has replaced mechanization and manual sortation over the past 15 years, newer plants may have had a relative advantage over older plants in making a transition from one technology to another. When Congress passed the Postal Reorganization Act of 1970, it enacted wage increases that corrected the serious underpayment of postal employees. Since then, the collective bargaining system has, as Congress intended, ensured that postal workers' wages have continued to be fair and adequate. APWU members have repeatedly and consistently rejected the concept of area wages. We observe, however, that the parties have the authority to negotiate area wages.

**JOHN F. HEGARTY  
Responses  
Of The  
National Postal Mail Handlers Union  
To  
Post-Hearing Questions for the Record  
Submitted From Senator Frank Lautenberg**

**“Preserving a Strong United States Postal Service: Workforce Issues”**

**February 24, 2004**

1. The Postal Commission found that compensation negotiations using the existing collective bargaining process have taken as much as 13 to 17 months.

In its Report, the Commission has proposed a “mediation and arbitration process” that would take a total of 90 days.

What are the specific features of the Commission’s process do you find to be objectionable and why?

Response: The key advantage of the bargaining process set forth in the Postal Reorganization Act (PRA) of 1970 is its flexibility. Under the current statute, the parties to any bargaining dispute are allowed to devise their own procedural system for resolving that dispute. Thus, under the PRA, factfinding followed by arbitration is the default position, but the parties in prior years have used factfinding, mediation, arbitration, and multiple combinations of these processes to resolve their bargaining impasses. The parties also have been able to control the timing of these processes.

If the procedural changes recommended by the Presidential Commission were adopted, this flexibility would be eliminated. Instead, the parties would be constrained by rigid procedural rules that, in the NPMHU’s view, would not improve the bargaining process one iota.

For example, the Commission stated that the “core ingredient” of its revised procedure for bargaining would use a mandatory, meditation-arbitration or “med-arb” approach to resolve bargaining impasses. Under a med-arb approach, the factfinding phase now set forth in the PRA would be eliminated and replaced with a mandatory mediation phase of thirty days, and if the mediation were unsuccessful, the appointed mediator would become one of the final arbitrators. The NPMHU, however, believes that requiring this med-arb approach would be counterproductive to the successful resolution of many bargaining

disputes. (It bears noting, of course, that the flexibility now part and parcel of the PRA permits the use of med-arb, and it has been utilized in prior rounds of bargaining when the parties deemed it advisable.) Simply put, it would corrupt any attempts at mediation, by destroying the usual confidentiality of the mediation process, and making it impossible for either party actually to share its priorities with the appointed mediator. To quote a noted expert, “parties to a combined mediation-arbitration procedure are often reluctant to retreat from extreme positions or to reveal how they prioritize their interests. [This] reduces [the] likelihood of bringing about agreement. It also reduces the likelihood that the arbitrator will have an accurate view of the parties’ priorities.”

Also part of the Presidential Commission’s recommendation is a proposal that would replace the parties’ current practice – which uses a three-member arbitration panel, in which each party chooses one arbitrator and then the parties jointly select one neutral arbitrator – with three professional arbitrators. In the NPMHU’s view, this change would have extremely negative consequences for the arbitration process, as it would completely remove the parties’ respective representatives and their unique expertise from the arbitral decision-making process. It makes it much more likely that the eventual arbitration decision will be contrary to the desires of either or both parties. It also severely reduces the likelihood that the parties might be able to mediate and settle (or narrow) their dispute during the arbitration process.

The Commission also has recommended that, after the arbitration decision is issued, the parties have ten days to review the decision and possibly bargain changes agreeable to both union and management. This proposal would be completely unnecessary if the current process allowing for each party to have a representative involved in the arbitration decision-making were maintained. It also poses problems for most unions, such as the NPMHU, that require membership ratification after any bargained agreement.

The Commission also has recommended that the binding interest arbitration be required to use the “last best final offer” model, in which each party is required to submit a total package of proposals, and the arbitration panel is required to choose one or the other package, and cannot compromise between the two. In theory, this would place extraordinary pressure on both sides to produce reasonable, workable compromises that incorporate the interests and priorities of both parties. Sometimes this model of arbitration would be helpful, but other rounds of bargaining would not be helped by requiring last best final offers. The current statutory model allows for last best final offer, and in fact it has been used in certain rounds of bargaining. But making such a system mandatory, through legislative change, would not be helpful, as it would remove the flexibility from the current system, which specifically allows

the parties to use the last best final offer or any other process that they mutually believe would help to resolve the bargaining dispute.

Finally, the Commission suggests that its proposed procedure would be completed in 90 to 135 days, whereas the current process often takes longer. Imposing strict time deadlines may sound appealing, but in practice they often would be counterproductive. Indeed, although the current bargaining and arbitration process occasionally is lengthy, both labor and management use that time wisely, continuously discussing their outstanding disputes, with the goal of either reaching an agreement or narrowing the scope of any eventual arbitration. For just one example, the NPMHU and the Postal Service did not reach agreement on their 2000 National Agreement, effective in November 2000, until February 2002. That agreement was overwhelmingly ratified by our membership, however, and perhaps of equal importance, that agreement paved the way for a 2003 negotiated agreement that was finalized prior to contract expiration and extended our National Agreement until 2006. None of these positive developments would have been possible with an inflexible deadline like that recommended by the Presidential Commission.

At bottom, no one involved in the bargaining process, including the Postal Service itself, has ever offered a convincing reason for amending the current statutory language into a set of locked-in, inflexible procedures that are certain to displease one or both parties at some point in the future. The current provisions, which grant flexibility to the parties to determine, in each round of bargaining, what procedures should be followed to best settle their dispute, should be maintained. An unjustified change in the statutory language is not reform; it simply is an unjustified change.

2. One longstanding postal issue has been the need to improve labor-management relations within the Postal Service. At one point, there was a backlog of 146,000 pending or appealed labor grievances.

What can the four workers' Unions do to encourage and facilitate greater cooperation between postal management and labor union? What steps would you recommend to reduce the number of labor grievances – future grievances and the backlog?

What do you think about the Commission's recommendations to institute mandatory mediation at the local level and use neutral third parties as mediators?

Response: For many years, the NPMHU and the Postal Service – both during collective bargaining and while contracts have been in effect – have worked strenuously to adjust the grievance process to ensure more timely and less costly dispute resolution. Most notably, a few years ago the parties agreed to produce a Contract Interpretation Manual or CIM that would set forth the parties' joint interpretation on literally thousands of contract issues. That 300-page manual was published in July 2003, and includes a compendium of the parties' joint understanding on the meaning of their contract. Between July and October 2003, we jointly trained more than one thousand union and management representatives, from virtually every large postal installation that employs mail handlers, on how to use the CIM to resolve disputes without the need to file a grievance or proceed to arbitration. Early results are extremely encouraging, as the parties' local representatives work diligently to settle their pending disputes and to prevent future disagreements. In the past six months, we have seen almost a 20% decrease in the number of cases being appealed to the third step of the grievance procedure and a 17% drop in the number of cases being filed for arbitration. This is just one model for how the parties are able to resolve their own problems, without legislative interference.

Indeed, in the past six years, the NPMHU and the Postal Service have adopted a host of substantive and procedural programs that are part of their continuing effort to avoid and/or resolve disputes in a more timely and efficient manner. In addition to the CIM, discussed above, here are some other examples of such programs currently being implemented by the NPMHU and the Postal Service:

-- The NPMHU and the Postal Service have implemented, on a nationwide basis, their Quality of Work Life or QWL program, whose aim is to foster



better communications between workers and managers at postal facilities around the country.

-- The NPMHU and the Postal Service have engaged in a series of meetings or labor summits at the National level to find common ground on significant issues confronting the Postal Service and its unions. These summits originally were conducted under the auspices of the Federal Mediation and Conciliation Service, and more recently have become a routine part of the relationship between the parties. In recent years, these summits have addressed common legislative issues, occupational safety and health (including anthrax), and the U.S. mail as part of homeland security, to name just a few of the issues that have been discussed.

-- The NPMHU and the Postal Service have agreed to an Intervention Initiative, originally set forth in their 1998 National Agreement, which allows the parties to take aggressive steps to resolve workplace disputes at the local level in the handful of situations where the local parties are unable to resolve such disputes without outside intervention. This intervention process has successfully reduced pending disputes in several postal locations around the country.

-- In both 1998 and 2000 negotiations, which led to the parties' 1998 and 2000 National Agreements, the NPMHU and the Postal Service agreed to a host of changes in Article 15 of their National Agreement governing the grievance-arbitration procedure. In addition to the matters noted above (e.g., the Contract Interpretation Manual, the Intervention Initiative), these agreements included many other changes aimed at resolving disputes more quickly and more effectively. For just one example, the parties have expanded their use of representative class-action grievances to cut back on the overall number of disputes pending in the grievance process.

-- The NPMHU has an active and continuing program of shop steward training for local union representatives. In these programs, hundreds if not thousands of local officers and stewards have been specifically trained to settle their grievances at the lowest possible level.

-- The USPS recently decided to return the handling of Step 2 grievances to professionals employed in Labor Relations, as opposed to plant managers or other operational personnel. The NPMHU has been urging this change in procedure for several years, because we believe that it will encourage these "outside" professionals to resolve disputes at that stage of the grievance process.

The examples could continue, but there is no reason to belabor the point. Both the NPMHU and postal management at the National level have

recognized the need to continue making changes in their relationship that are aimed at resolving their workplace disputes at the lowest possible level of the grievance procedure. There is no need for legislation relating to this issue.

Finally, there also is no justification for mandating the use of mediation at the local level. To be sure, in some circumstances mediation programs could be helpful, especially where labor and management representatives are having trouble communicating, as opposed to more common situations where the parties are communicating, but simply disagree. But mediation already is available when and where it would be useful, and where the local parties request it. On the other hand, mediation cannot – and would not – succeed if it were mandated. Simply put, mediation is cost prohibitive, and it would be impractical, if not impossible, to implement mediation with regard to the hundreds of day-to-day disputes that arise on the workroom floor in thousands of postal facilities across the country.

3. While the Commission clearly favored that all individual components of a Postal employee's "total compensation" (which would include wages, holiday, leave, insurance, pensions, medical and hospital benefits) should be subject to the collective bargaining process, as is the case in the private sector, the Commission recommended that the newly-created Postal Regulatory Board should decide the appropriate private-sector comparison for Postal employee compensation.

What's wrong with this proposal?

Response: The most ill-conceived recommendation issued by the Presidential Commission calls for a politically-appointed Postal Regulatory Board to examine pay comparability and, based on that examination, to establish wage caps for current employees and pay limits for newly-hired postal employees. This proposal is totally unwarranted and totally unacceptable.

The postal unions and management have been litigating pay comparability issues for more than thirty years, both in bargaining and in binding interest arbitration. Numerous economists and attorneys have produced thousands of pages of evidence and testimony about these issues, and experienced labor arbitrators have issued several rulings on comparability issues since 1981. It therefore would be virtually impossible, and wholly inappropriate, for a politically-appointed Postal Regulatory Board to review or have any meaningful opinion on these issues.

**Responses  
Of The  
National Postal Mail Handlers Union  
To  
Post-Hearing Questions for the Record  
Submitted From Senator Thomas Carper**

**"Preserving a Strong United States Postal Service: Workforce Issues"**

**February 24, 2004**

Collective Bargaining

1. It is my understanding that the collective bargaining process laid out in current law is rarely used. In most cases, a union and the Postal Service usually agree to use another process with different timelines and different procedures. Either side, however, could insist that the statutory process be used. Are there any changes to this process you would like to see made in order to protect your members in the event that the Postal Service refuses to stray from it?

Response: The simple answer is no.

The key advantage of the bargaining process set forth in the Postal Reorganization Act of 1970 is its flexibility. Under the current statute, the parties to any bargaining dispute are allowed to devise their own procedural system for resolving their dispute. Thus, under the PRA, factfinding followed by arbitration is the default position, but the parties in prior years have used factfinding, mediation, arbitration, and multiple combinations of these processes to resolve their disputes. If the procedural changes recommended by the Presidential Commission were adopted, this flexibility would be eliminated, and instead the parties would be constrained by rigid procedural rules that, in the NPMHU's view, would not improve the bargaining process one iota.

2. As you know, contract negotiations frequently take longer to complete than was envisioned in the Postal Organization Act. The "default" bargaining process laid out in that bill should take no more than 135 days from start to finish if both side adhere to the letter of the law. How frequently do negotiations go longer than that? What are the reasons for the delays? Can one party usually be blamed for the delays?

Response: The current process for negotiations either leads to settlement, or to eventual arbitration. If a settlement is reached, usually (but not always) it is reached within 90 days, prior to contract expiration. Arbitration takes longer, sometimes as much as 12-18 months after the beginning of negotiations.

The recent history of collective bargaining between the NPMHU and the Postal Service is instructive. In the 1990 round, bargaining reached an impasse on the date of contract expiration, November 20, 1990, and the parties completed interest arbitration by the end of February 1991, just three months later. In the 1993 round, the parties were able to reach a negotiated agreement on a one-year extension by the date of contract expiration, November 20, 1993. The 1994 round of bargaining reached impasse at contract expiration on November 20, 1994, but the parties continued their discussions for several months thereafter. During that time, two of the other major unions engaged in interest arbitration proceedings with the Postal Service, and the NPMHU and the Postal Service agreed to await the outcome of those proceedings. Thereafter, in January 1996, the NPMHU and the Postal Service started their own interest arbitration, and a final decision was issued in April 1996. Thus, it took approximately 17 months to implement the dispute resolution procedures in the 1994 round of bargaining.

The lengthy delay that characterized the 1994 round was followed by the 1998 round of bargaining, which resulted in a negotiated agreement less than two weeks after contract expiration in November 1998. The 2000 round of bargaining again resulted in a negotiated agreement, although this time it took over 12 months to reach that agreement. Finally, most recently, the parties in early 2003 were able to reach a negotiated extension to their 2000 National Agreement, such that the current contract between the NPMHU and the Postal Service does not expire until November 20, 2006.

The point of recounting this history is to show that the timing of negotiations varies, as made necessary by various factors, including but not limited to the complex nature of the issues being discussed, the state of bargaining with other employee groups, and the status – financial and otherwise – of the Postal Service. It would not be productive to place

blame for these delays on one side or the other, as circumstances differ each and every round of bargaining.

Although imposing strict time deadlines may sound appealing, in practice they often would be counterproductive. Indeed, during the lengthy delays that sometimes characterize the current bargaining and arbitration process, both labor and management use that time wisely, continuously discussing their disputes, with the goal of either reaching an agreement or narrowing the scope of any eventual arbitration. As an example, as described above, the NPMHU and the Postal Service did not reach agreement on their 2000 National Agreement, effective in November 2000, until February 2002. But that agreement was overwhelmingly ratified by the Union membership, and, perhaps of equal importance, that agreement paved the way for a 2003 negotiated agreement that extended the NPMHU/USPS National Agreement until 2006. None of these positive developments would have been possible with an inflexible deadline like that recommended by the Presidential Commission.

3. As I read the commission's recommend changes to the collective bargaining process, I fear that they could force more contract disputes into arbitration. Do you think that you will be able to resolve as many disputes before arbitration if we were to adopt the commission's recommendation? What would happen if more contract disputes were arbitrated?

Response: As noted above, forcing an artificial time deadline on the parties, and forcing the use of mandatory mediation, would add to the number of disputes that would not be the subject of negotiated agreements between the parties, but instead would result in arbitration. This would be counterproductive to the long-term development of harmonious labor relations within the Postal Service.

For more details about the NPMHU's views on the specific recommendations of the Presidential Commission, please see the NPMHU's written response to the first question posed by Senator Lautenberg.

4. As you know, the President's postal commission recommends making a fuller range of postal employees' benefits eligible for collective bargaining. Senator Collins and I have sent a letter to the Postal Service and OPM requesting additional information about how this would work and what it would mean for your members and other federal employees. What kinds of benefits can you negotiate over in collective bargaining now? How frequently have benefits been an issue in contract disputes?

Response: In brief, the postal unions and postal management do not negotiate over pensions, health benefits, workers' compensation, or life insurance. These matters are subject to legislative and regulatory rules set forth by Congress and the Office of Personnel Management. Those rules have been treated as binding on all federal and postal employees. On the other hand, postal bargaining routinely focuses on the costs of health insurance for active postal employees. This latter subject – the share of the cost of health insurance that should be paid by active (i.e., non-retired) postal employees – has been a major subject of collective bargaining at least since 1990. Several rounds of bargaining between the NPMHU and the Postal Service have implemented substantial changes on this subject, specifically including the 1993 and 1998 rounds of bargaining.

For a further discussion of this topic, please see earlier written submissions by the postal unions and the Postal Service.

5. I think there is an impression that the current collective bargaining process benefits the unions. A lot of people believe that you always make out pretty well. Is this the case? Have there been times where your members wound up giving up a lot during negotiations?

Response: The current bargaining process is very much a two-way street. The unions and management both “lose” and “win” on certain occasions. When arbitration does occur, there are no guarantees.

For example, arbitration in the 1984 round of bargaining between the NPMHU and the Postal Service created a lower entry rate for new mail handlers. That lower entry rate remains in place to this day. Another example would be arbitration during the 1990 round of bargaining between the NPMHU and the Postal Service, which produced three years without any general wage increases for mail handlers. Because of that round of bargaining, mail handlers today earn lower wages than other postal employees at the same level and step of their respective pay scales. Finally, as part of the 1998 National Agreement, the NPMHU agreed to increase the percentage of casual or temporary, non-union employees (who are paid low wages without benefits) that may be used by the Postal Service on an intermittent basis to perform mail handler work. In exchange for this increase in the percentage of casual employees, the parties adjusted their method of measuring the employment and use of such employees.

In short, there often have been management “victories” resulting from the current bargaining and arbitration process. Because both parties accept the process, however, even the National Agreements resulting from these rounds of bargaining were implemented peacefully.

## Pay

1. As you know, the President's commission recommends that the Postal Service develop a "pay-for-performance" system for all employees, from supervisors to bargaining unit employees. What kinds of "pay-for-performance" systems has the Postal service attempted to use before? Have they been a good use of the Postal Service's resources?

Response: Pay for performance programs, such as those recommended by the Presidential Commission, allegedly would provide financial incentives to employees to work more productively. With all due respect, such programs cannot be designed, and will not work, for mail handlers and other mail processing employees in large plants whose contributions to the movement of mail cannot be measured like piece-work.

The only time that such a program was implemented for mail handlers was the Striving for Excellence Together or SET Program in the early 1990s. This negotiated program provided small bonuses for mail handlers working in large facilities that had improved their overall economic and work-hour productivity over the prior year. The program had no discernable impact on productivity, and was terminated by mutual agreement of the parties in 1994.



2. Productivity data provided by the Postal Rate Commission shows that the Postal Service's larger Processing and Distribution Centers, particularly those in urban areas, are oftentimes less efficient than smaller facilities. How much of this do you think is attributable to the fact that many large, urban processing facilities are older? How much of it do you think is attributable to the fact that postal wages are probably not as competitive in urban areas? Would your members support an area wage system that allowed the Postal Service to pay workers in high-cost parts of the country higher wages?

Response: First, it is important to note that postal productivity has improved, and will continue to improve. During the past three decades, the productivity of mail handlers and other postal employees has increased dramatically, including notable increases in productivity during the past few years. The Postal Service today processes and delivers more than 200 billion pieces of mail using approximately 720,000 employees. Not too many years ago, approximately the same number of employees was used to process and deliver one-half as much mail. Through a combination of automation, improved mail flow, and other means, today's mail handlers and other postal employees are more productive than ever before. Indeed, the Postal Service recently reported that 2004 will mark a record fifth straight year of positive productivity growth.

Accepting for the sake of discussion that productivity is lower in urban areas, it certainly is possible that this could be explained by the use of older buildings and equipment, as well as more difficult transportation and space issues. As for area wages or locality pay, the delegates to prior NPMHU National Conventions and Union representatives attending other nationwide meetings have specifically rejected such pay arrangements, and neither the NPMHU nor management has proposed such a pay system. The other major postal unions have adopted similar positions.